

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA

v.

GERMAN de JESUS VENTURA and
KEVIN GARCIA FUERTES,
Defendants

)
)
)
) Criminal Docket No. WDQ-10-0770
) Volume IX

Baltimore, Maryland
April 19, 2013
9:34 AM to 3:32 PM

**THE ABOVE-ENTITLED MATTER CONTINUED ON FOR
JURY TRIAL
BEFORE THE HONORABLE WILLIAM D. QUARLES, JR.**

A P P E A R A N C E S

On behalf of the Government:

Michael Cunningham, Assistant U.S. Attorney
Rachel Yasser, Assistant U.S. Attorney

On behalf of Defendant German de Jesus Ventura:

Gerald Ruter, Esquire

On behalf of Defendant Kevin Garcia Fuertes:

Michael D. Montemarano, Esquire

A P P E A R A N C E S (CONT.)

Also present:

HSI Special Agent Edward Kelly
Victoria Kirchgessner, Spanish Interpreter
Marta Goldstein, Spanish Interpreter

Reported by:

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PROCEEDINGS OF APRIL 19, 2013

THE CLERK: All rise. The United States District Court for the District of Maryland is now in session, The Honorable William D. Quarles, Jr. presiding.

THE COURT: Good morning. Please be seated. Counsel, are you ready for the jury?

MR. MONTEMARANO: Two things, Your Honor, very briefly. Initially, we have been provided with a change to the verdict sheet this morning --

THE COURT: Yes.

MR. MONTEMARANO: -- by Ms. Kies.

THE COURT: Very good.

MR. MONTEMARANO: I want to make sure I'm pronouncing her name right. I'm a little sensitive about that. And I'd like to be heard on that at some point, on the one.

Secondly, for the record, in terms of scheduling, I'll be requesting a break before we begin my closing argument, which will be a couple hours from now.

THE COURT: To compose yourself?

MR. MONTEMARANO: Well, I'd like to make sure the jury is concentrating on me, and not their bladders.

THE COURT: Okay. Ready for the jury, folks?

MR. RUTER: Yes, Your Honor.

MS. YASSER: Yes, Your Honor.

1 Oh, Your Honor, am I permitted to move the easels?

2 **THE COURT:** You can, but we're trying to keep -- you
3 can do it now, because the connection is not necessary. If
4 the connection should become necessary, then I'll ask you
5 to move it. Yes, you may use it.

6 **MS. YASSER:** Thank you, and let me know if I --

7 **THE COURT:** Yes.

8 (Jury enters.)

9 **THE COURT:** Good morning.

10 **JURORS:** Good morning.

11 **THE COURT:** Please be seated.

12 Members of the jury, we're entering the final phases
13 of the trial. As I told you, this phase is the argument
14 phase. This is where the lawyers get to tell you what they
15 think the evidence has proved. So I will ask you to give them
16 your full attention. The Government has promised to be no
17 more than 90 minutes in its opening close, and, again, give
18 the Government your full attention. I will watch the clock
19 for you.

20 **MS. YASSER:** Thank you, Your Honor.

21 May it please the Court, ladies and gentlemen.

22 This is a case about two men who profited from the
23 sale and exploitation of women, women already vulnerable
24 because of their status and their position in this country,
25 women who were from all over, and largely up and down the East

1 Coast, who were transported interstate by the Defendants to
2 engage in commercial sexual activity -- prostitution, usually
3 on dirty, mostly bare mattresses in the basements and back
4 rooms of squalor apartments, dark blankets covering the
5 windows so that no light could come in and the outside world
6 was shielded from seeing what was going on, seeing this
7 largely hidden criminal violation.

8 These women were expected to service upwards of 30
9 men a day, \$30, 15 minutes, of which the women only kept half,
10 deductions made from that for the bare necessities of things
11 to protect themselves, like condoms, paper towels, rubbing
12 alcohol. They were not permitted to leave, no fresh air, no
13 lights, only themselves and these men, and no communication
14 with the outside world. They did that for six to seven days
15 in a row before they were shuttled, herded like cattle to the
16 next location where it would begin again, and all to line the
17 pockets of the men responsible for their exploitation,
18 Defendants Kerlin or Kevin Esquivel Fuertes and Defendant
19 German de Jesus Ventura.

20 And, with respect to Defendant Ventura, it wasn't
21 enough to profit from this illegal sexual commerce. He wanted
22 to own it. He wanted to control it. And you saw, as he
23 demonstrated for you yesterday, what you already knew to be
24 true from all the evidence you had already heard in this case,
25 and that's this defendant's complete and utter disregard for

1 the rule of law, his complete and utter disregard for the
2 value of human life, his unrelenting desire to control the
3 people around him.

4 And you've learned over the course of this trial,
5 these many weeks, that, in order to control the sex-
6 trafficking trade in Annapolis, Mr. Ventura, along, in the
7 early stages, with the help from Kerlin Esquivel Fuentes, set
8 out on a campaign to intimidate and to eliminate the
9 competition through threats of and actual use of physical
10 violence -- a campaign that included intimidating anyone who
11 was perceived to have gotten in their way, starting with
12 El Pelon.

13 You heard from Carlos Campos during this trial.
14 Mr. Campos, if you can recall, was the gentleman who owned the
15 electronic repair shop in Annapolis. He testified that he
16 knew El Pelon, the victim of the homicide, for about eight
17 years before he was murdered, and Ventura, who he called
18 Pancho, for five of those years. Carlos Campos testified that
19 El Pelon was in the very same business as Ventura and Fuentes,
20 the prostitution business, and that he saw Fuentes, who he
21 called Flaco, distributing business cards in his neighborhood
22 around the area where Ventura was running brothels at that
23 time.

24 And Carlos Campos testified that, one day back in
25 March or April of 2008, Ventura and Fuentes came to see him

1 about a car stereo, and, at that time, Ventura told him that
2 he wanted his friend, Victor, El Pelon, out of Annapolis, out
3 of his territory. And, to make sure that they knew that
4 Campos would take them seriously, Mr. Fuertes took a black
5 Beretta out of the trunk of the car, and Ventura showed it to
6 Mr. Campos in the hopes, of course, that he would pass on
7 their threat to Mr. -- to El Pelon, to Victor.

8 And you learned that, about five or six months after
9 this interaction, after this threat, El Pelon was murdered
10 execution style, in the back of the head, and the woman, the
11 prostitute that he was transporting at the time, miraculously
12 was able to survive. And you heard from a young woman named
13 Rebeca Dueñas, who testified and who was under control of
14 Mr. Ventura at the time that she saw Ventura and Fuertes that
15 night celebrating the murder of El Pelon, Fuertes with a gun.

16 The victim's girlfriend -- El Pelon's girlfriend
17 provided phone numbers to law enforcement. Those phone
18 numbers were of people who were threatening El Pelon in the
19 months leading up to his execution-style murder, numbers that
20 were the same numbers that Mr. Campos provided for Pancho and
21 Flaco, Ventura and Fuertes, the same men who had come to him
22 to threaten Victor, and those numbers became a starting place
23 for Detective Hartlove, the man assigned to investigate the
24 murder of El Pelon.

25 And what that investigation revealed and what many

1 people testified over the course of this trial is that Ventura
2 used the murder of El Pelon in order to control the sex trade
3 in Annapolis. Employees like Carlos Ascencio, Maximilliano
4 Zelaya Repalo heard Ventura accept responsibility and take
5 credit for the murder of El Pelon, and the reason -- the
6 reason Ventura was touting his violent achievements was
7 because, even though El Pelon was now out of the way, there
8 were still others who were infringing on his territory; two
9 men in particular, Freddy Soriano and his employee, Hector
10 Avila.

11 Former employees of Ventura like Carlos Ascencio,
12 Maximilliano Repalo among them, testified that Ventura planned
13 to kill the Dominican and his worker, Mr. Zelaya Repalo going
14 as far as driving around with Ventura and a firearm looking
15 for him. And you saw the threatening text message and picture
16 message, and that's Exhibit 5c/7, and you heard the
17 threatening phone calls that Ventura placed to Freddy Soriano
18 and Hector Avila.

19 That's the picture of a semi-automatic, a magazine,
20 and a Santa Muerte statue, angel of death, that Ventura wished
21 upon Hector Avila and Freddy Soriano. That message and 19a/6,
22 which was the one sent to Hector Avila, were sent from
23 Ventura's phone number, a phone Ventura was arrested with in
24 November of 2010. That's the 3124 number that you heard so
25 much about during the trial. And of course you know that that

1 same statue was recovered in Ventura's house next to a window
2 remarkably similar to the one that's depicted there.

3 And, ladies and gentlemen, these threats of violence
4 weren't just threats. You heard that, on November 3rd of
5 2010, Hector Avila was, in fact, assaulted with a pistol grip
6 shotgun by one of Ventura's employees, Ferman Martinez
7 Hernandez. Who could forget him, right? He testified here,
8 and he told you that he set out to assault Hector Avila
9 because Ventura told him to. That's why he did that. And
10 ultimately it was that assault, the escalating violence, that
11 led law enforcement to step in and take down Ventura's sex-
12 trafficking operation, an operation they had been
13 investigating for some time, and that ultimately led to the
14 indictment of, among others, the two men who sit before you
15 today.

16 Ladies and gentlemen -- and what that investigation
17 revealed is that Ventura and Fuertes didn't direct their
18 violence only to other men that were involved in the sex
19 trade. You learned what happened to law-abiding citizens,
20 members of the community who opened their doors to women
21 working for Ventura.

22 Do you remember the woman Sandra Flores -- she came
23 in -- the hard-working Hispanic woman, the cleaning woman, who
24 lived in [REDACTED], during the time
25 period when Olivia Maldonado, the prostitute, was recovered

1 from the apartment downstairs? She testified that the police
2 came to her and asked that she lend a place for Maldonado to
3 stay that night, because Ms. Maldonado, who was from out of
4 state, had nowhere to go.

5 Ms. Flores agreed, and Ms. Maldonado, likely scared
6 that Ventura would think that it was her that called the
7 police to that location on that day, asked to borrow
8 Ms. Flores' phone. You saw the phone records. You saw
9 Ms. Flores' phone records, so you can see who it was that
10 Olivia Maldonado called -- Mr. Ventura at his 0903 number.

11 And, almost -- I think less than an hour later, you
12 saw an incoming call from Ventura to Ms. Flores, and
13 Ms. Flores testified that Ventura called and threatened her
14 and her family. He threatened to kill her and her family. In
15 the weeks that followed, Ms. Flores' family was literally
16 terrorized. They had gasoline placed in front of their
17 doorway, rocks and sticks thrown at their window, and the van
18 of her husband's car was smashed out, and that's all for
19 lending a hand to one of Ventura's women.

20 And it's no wonder that Olivia Maldonado was nervous
21 that this man would think that she called the police, because
22 you heard from Margarita Santiago exactly what he did when he
23 suspected people of calling the police on him. Remember
24 Margarita Santiago? She was arrested in September -- end of
25 September of 2009 at [REDACTED]. She was with

1 Carlos Ascencio at the time. Well, she testified that, after
2 that arrest, Ventura called her and threatened her. He
3 threatened to kill her. He was on a mission to find the
4 person responsible for calling the police.

5 You also heard that Ventura was easily angered when
6 he saw his women working for local competition, women that he
7 felt that he should control. Hector Avila testified --
8 remember, Hector Avila is the man who was assaulted on
9 November 3rd, 2010, the competition, one of the competitors
10 for Mr. Ventura, and he testified that he saw, on one
11 occasion, working was a woman named Isabella, a prostitute
12 from Brazil, and, when he got a call for service with
13 Isabella, he went to pull out his car, but he was being
14 blocked. So he got out of his car, and he saw the Defendant,
15 Ventura, in his green Ford Expedition.

16 And, while Hector Avila couldn't hear everything
17 that was said to Isabella that day, what he did hear was a
18 threat. He threatened that she needed to get out of there, or
19 something would happen to her, that he knew -- he suspected
20 that she was the one that was working with Hector Avila, and
21 Hector Avila testified that he observed Isabella after that,
22 that she was visibly upset, that she was scared, and that she
23 asked Hector Avila to take her home, which he did.

24 Finally, in order to maximize his profits, Ventura
25 set out to coerce and to compel, through fraudulent means as

1 well as the use of force, a young woman named Rebeca Dueñas
2 Franco, a woman who was trying to get out of the prostitution
3 life. This man made her false promises, and Ms. Dueñas, being
4 of limited education and limited means, believed him, and she
5 went with him.

6 Not before long, Ventura was harboring her in
7 dilapidated apartments for his own sexual purposes. He put
8 her to work, keeping all of the proceeds for himself, and he
9 used threats of violence, guns, and actual physical abuse to
10 maintain control over her, and, for a period of time, Ventura
11 did so with the knowledge of his defendant, Fuertes, the man
12 who was at every location where Rebeca Dueñas Franco was being
13 held.

14 Now, as a result of their conduct, Ventura and
15 Fuertes have been charged in a multiple-count Superseding
16 Indictment.

17 If I may, Your Honor?

18 **THE COURT:** Yes.

19 **MS. YASSER:** These are multiple counts related to
20 the interstate transportation of women, conspiracy, as well as
21 sex trafficking by force, fraud, and coercion, and I'm going
22 to review these charges and their elements and the evidence
23 that supports these charges and the elements in just a moment,
24 but, before I do, I want to just take a moment to reintroduce
25 myself to you.

1 My name is Rachel Yasser, and I, along with my
2 colleague, Michael Cunningham, have both the privilege and the
3 responsibility of representing the United States in connection
4 with the charges against Mr. Ventura and Mr. Fuertes, and we,
5 together with Special Agent Ed Kelly of HSI, want to thank you
6 for the time that you've taken out of your personal lives to
7 be here and to pay attention to this very serious matter.

8 The Court is going to instruct you at the end of the
9 trial what elements support each and every one of the charges
10 in the Superseding Indictment, and your job as jurors -- and
11 then he'll instruct you on the law, and his instructions will
12 control, but your job as jurors will be to listen to the law,
13 and then apply the facts and the evidence as you heard them to
14 the law as instructed to you by the Court.

15 I want to do that with you now, and I want to start
16 with the discussion of Counts 1 and 2 together. Count 1 is
17 conspiracy to entice, to travel, or to travel or to transport
18 interstate for purposes of prostitution. Count 2 is the
19 actual interstate transportation for purposes of prostitution.

20 Starting with Count 1, conspiracy, there are a few
21 elements here -- three elements to the conspiracy charge.
22 First, that two or more persons entered into at least one of
23 the unlawful agreements charged; that is, either enticement to
24 travel interstate or the interstate transportation for
25 purposes of prostitution -- people came to an agreement,

1 implicitly or explicitly; two, that the Defendant knowingly
2 and willfully joined the conspiracy; and, three, that one of
3 the members of the conspiracy, either the Defendants or other
4 co-conspirators, knowingly committed at least one overt act in
5 furtherance of the conspiracy, they did something -- they put
6 some plans in action to make it happen.

7 And there are several overt acts charged in the
8 conspiracy. The Judge will read them all for you. I'm not
9 going to do that now. All you have to do is agree that one
10 act was made in furtherance of the conspiracy. So this is a
11 fairly straightforward charge. You just have to ask
12 yourselves: Did Fuertes and Ventura agree, either implicitly
13 or explicitly, with each other or others involved in the
14 conspiracy to participate in an illegal operation that
15 included the transportation of women, the enticement of women
16 to come into Maryland for purposes of prostitution?

17 Count 2 is the actual physical or arrangement to
18 physically transport people in interstate commerce for
19 purposes of prostitution. Elements are simple: The
20 Defendants knowingly transported any individual in interstate
21 commerce, and the Defendants transported this individual with
22 the intent that they would engage in illegal sexual activity,
23 here prostitution.

24 Ladies and gentlemen, the evidence on these two
25 charges is fairly uncontroversial. It's why the Defense told

1 you in opening statements that there was no disputing that
2 these two men were involved in prostitution, and you know now
3 from all the evidence that you heard in this case what kind of
4 prostitution that business was. That model, you learned,
5 relied on the interstate transportation of women. These women
6 came from all over, and they were on sort of a circuit,
7 because the men, as you heard -- the customers -- wanted
8 variety, and so the women would move interstate from one place
9 to another.

10 So what the Defense essentially told you in opening
11 statements and what I predict they'll tell you again is that
12 the Defendants are not guilty of these two charges because
13 they didn't force anyone to commit prostitution. Well, as you
14 know from having just seen the elements of the these offenses,
15 there is no such requirement for these charges. The bottom
16 line is it's unlawful for people to conspire to and then to
17 transport or offer people to travel in interstate commerce for
18 purposes of prostitution. It's the actual conspiracy and then
19 the actual enticement and transportation that are separately
20 criminalized. The question of voluntariness is simply not
21 relevant to these charges.

22 So let's talk a little bit about what is relevant.
23 What is relevant with respect to Count 1 is whether the
24 Defendants were members of the conspiracy related to
25 interstate transportation and, in Count 2, whether the

1 Defendants did, in fact, transport or arrange for the
2 transportation of some of these women for purposes of
3 prostitution. The evidence that you've heard is overwhelming
4 as to both of these two counts.

5 I apologize to those on the end who can't see, but
6 you'll have these back with you in the jury room.

7 What you learned from multiple witnesses in this
8 trial is that Defendant Ventura was operating several brothels
9 in the Maryland area, as well as in Virginia -- I'm sorry --
10 the Annapolis area, Virginia, as well as Easton, and that, for
11 a significant period of time, Mr. Fuertes was working with
12 Mr. Ventura. He handed out business cards. He worked in the
13 brothels, collecting money to give to Ventura. In addition to
14 working in the Maryland brothels, two of which he was actually
15 arrested in, he also worked in Virginia, you heard from a
16 couple of witnesses -- work that, of course, required the
17 interstate transportation of women as part of the circuit from
18 Maryland to Virginia and back.

19 In addition to the witness testimony that these two
20 men were engaged in interstate transportation and enticement,
21 you can be certain of the existence of this conspiracy based
22 on the physical evidence that was seized and that you saw over
23 the course of this trial, evidence that literally shows the
24 connections between these two people and their illegal
25 enterprise, the brothels that they were operating.

1 Starting with the September 2008 arrest of
2 Mr. Fuertes, you learned he was driving a Nissan Altima that
3 day, and that, after he gave a false name and a false birth
4 certificate, he was arrested, and his car was towed, and it
5 was later searched, and inside that car were 500 or so
6 prostitution business cards of which you've heard plenty
7 about, Crown condoms, and a machete. And, if you recall the
8 registration on that vehicle, it was in the name of Amparo de
9 Jesus Gonzalez at [REDACTED], a brothel where
10 Mr. Fuertes was, on another occasion, actually arrested.

11 Now, who is Amparo de Jesus Gonzalez? Who knows?
12 Who cares? It might not even be a real person, but what's
13 significant about this name is that it showed up throughout
14 this trial, and it shows the connection between these two
15 defendants.

16 Let's take a look at the business card that
17 Mr. Fuertes was arrested with. That provides an address, [REDACTED]
18 [REDACTED], the same address on the Nissan registration, as
19 well as a phone number. The subscriber to that number is
20 Amparo de Jesus Gonzalez at [REDACTED], and also, on a prior
21 occasion -- this is 36d -- a prior occasion, the address of
22 [REDACTED], Ventura's residence, the same place he was
23 arrested in and he admitted was his home.

24 The subscriber to the telephone number Fuertes gave
25 when he was arrested, the 5015 number -- and this is 36b --

1 Dulce Maria Benites Ventura. And the number that Ventura was
2 also arrested with has a phone subscribed to [REDACTED]
3 [REDACTED], and this is 36h. That's 09 or a -- I'm
4 sorry -- that 0903 number. And what you see from these
5 records is that number was first subscribed to German Ventura
6 at [REDACTED]. But, after the death of Pelon, even that number
7 changed to Amparo de Jesus Gonzalez at [REDACTED].

8 These men are using the same aliases, the same addresses to
9 conduct their affairs, the same address that's actually
10 associated with a brothel in which Fuertes was arrested.

11 And you also saw the BG&E bills at that brothel, as
12 well as others, in the name of Amparo de Jesus Gonzalez, first
13 at the [REDACTED] location, and then again, on another
14 instance months later, at the same location, all of which
15 establishes the connections between these two defendants and
16 their involvement in the same illegal enterprise.

17 Now, the next day after Mr. Fuertes was arrested in
18 the Nissan Altima, you learn that [REDACTED], his residence,
19 was searched, and you saw pictures of that residence. Just as
20 an example.

21 (Photograph displayed.)

22 **MS. YASSER:** There was no question what was going on
23 behind those doors. That's in the basement. There was
24 another picture similar to that one.

25 Rebeca Dueñas was present, and she testified that

1 she was working for Ventura at the time, and that was
2 Ventura's brothel, which Fuertes was responsible for running,
3 and her testimony was supported by the physical evidence
4 recovered there. Her belongings were in an upstairs room
5 showing that she was living there; she wasn't just a temporary
6 resident like the other prostitutes that were there. There
7 was a huge bag of condoms recovered in Fuertes' room, Crown
8 condoms that are manufactured out of this country and that are
9 commonly used in the sex trade.

10 Pancho's name and number was recovered in a notebook
11 there. You know whose number that is, because he was arrested
12 with it some weeks later. That's German de Jesus Ventura at
13 the top. You also heard that there was a house phone seized
14 at [REDACTED] on that day, a phone that, when law enforcement was
15 actually there, started calling in and asking for women.
16 That's the phone they used to generate their business, and you
17 can see -- and that was the 8198 number, I believe, or 8168
18 number. And so, when you look at that number for evidence of
19 conspiracy, what you learn is that that house phone number at
20 [REDACTED] -- this number had multiple contacts with
21 Mr. Ventura as well as Fuertes, the two numbers these
22 gentlemen had at the time. We know they had them because they
23 were arrested with them. 315 contacts in a two-month period,
24 83 contacts in a five-day period.

25 And not only that, establishing their connection

1 between the brothel, the business of interstate
2 transportation, you can also see the contacts between each
3 other, between themselves, further evidence of people that are
4 involved in a conspiracy, because, frankly, who speaks 919
5 times in four months? Who speaks 3,000 times over a period of
6 a year? Men who are involved in business together. You know
7 from the context, the evidence in this case, precisely what
8 that business was -- the business of interstate transportation
9 for purposes of prostitution.

10 About a year following Fuertes' arrest in his car
11 and at [REDACTED] -- there was an interim arrest as well at [REDACTED]
12 [REDACTED] -- Mr. Ventura was arrested with evidence that further
13 confirmed that he was the leader of this illicit business. He
14 was arrested on September 24th of '09 with a large amount of
15 cash and tally sheets -- tally sheets with the names [REDACTED] or
16 [REDACTED], which is [REDACTED], you heard, and [REDACTED], which is
17 the [REDACTED] operation. Who has that kind of cash and
18 tally sheets with two locations but the leader and organizer
19 of a business? And the names on those tally sheets of course
20 correspond to locations that you know were searched and that
21 were, in fact, brothels during the same time that Mr. Ventura
22 was arrested. There is no question what was going on behind
23 those closed doors and in those basement rooms.

24 And, with respect to the [REDACTED] location that
25 was on Ventura's tally sheet, that was also a location where

1 Mr. Fuertes had been arrested just months prior. He was
2 arrested there running that operation that belonged to
3 Ventura, and we know that, after that arrest, which was in the
4 March time frame of 2009, Fuertes was placed in deportation
5 proceedings, and he eventually FTA'd for an appearance
6 there -- failed to appear for an appearance there. We later
7 learned where it was exactly that he was -- running one of
8 Ventura's operations in Virginia, [REDACTED].

9 You heard testimony from Carlos Ascencio that he
10 began -- Carlos Ascencio, who began working for Ventura about
11 four months prior to his arrest in September of 2009, met
12 Ventura at Alex's brothel. Do you recall that testimony? He
13 testified that he was initially -- Carlos Ascencio was
14 initially working for a man named Alex, a man who had a bad
15 eye, and that Ventura came to that brothel -- Alex's brothel
16 as a customer, and that he recruited Carlos Ascencio to work
17 for him in Maryland, and Carlos Ascencio, who was on
18 probation, decided that that was a good idea, to get a little
19 bit further outside of Washington, D.C. where he was.

20 Carlos Ascencio, if you remember, also testified --
21 and this will be relevant later -- that Ventura would come to
22 Alex's house looking for the most beautiful women to take as
23 his own. Carlos Ascencio testified that, when he began
24 working for Ventura, it was the same as it was in D.C., that
25 these women came from out of state from New York -- I think he

1 said Boston and elsewhere -- and that, on at least on one
2 occasion, Ventura directed him to pick up a woman from New
3 York, from the bus station in D.C., and then transport her to
4 Maryland. He, just like everyone else in this case, said that
5 these women were rotated on a weekly basis from brothel to
6 brothel and across state lines and back. That is simply how
7 this business operated, and everyone knew it.

8 One of the places that Ventura rotated his women was
9 this brothel at [REDACTED], the same brothel that Ventura was
10 surveilled bringing a woman to later in August of 2010, and
11 that, Carlos Ascencio -- what Carlos Ascencio told you is
12 where he met a man named Pacha and Juano and who he identified
13 in this courtroom as Defendant Fuertes.

14 Carlos Ascencio said that Fuertes was running that
15 location, and that he would later see -- after he went with
16 Ventura and this prostitute to Virginia, where he saw Fuertes,
17 that he would later see Fuertes also in Maryland at the end of
18 the week, when the week's work was done, bringing the cash
19 back to Ventura and dropping off the women from the Virginia
20 brothel back to the Maryland brothels.

21 That, ladies and gentlemen, constitutes specific
22 instances of transportation that support Count 2 as to both
23 Ventura and Fuertes.

24 The phone records you saw also corroborated this
25 testimony with respect to Mr. Fuertes and his connections to

1 the Virginia brothel. You saw -- and this is 40f/1 on our
2 association chart -- that this number, 4168, was saved under
3 Ascencio's phone as Juano, the man he identified as Fuertes,
4 and that same number was saved in Ventura's phone as Pacha,
5 the other name for Mr. Fuertes that Ascencio identified; was
6 also saved as Norfo, which is common; they save the names of
7 the brothels as the names of the brothels. It was also saved
8 as Flaco on other phones connected to this case, [REDACTED] -- at [REDACTED]
9 [REDACTED], Ventura's residence in November of 2010.

10 So all the connections establish that this
11 particular phone number was Fuertes' number at the time, and
12 what you see between that number and Mr. Ventura are, again,
13 numerous connections evidencing their participation in a
14 conspiracy.

15 So, in conclusion on these two counts, it's
16 eyewitness testimony, the physical evidence that were seized
17 and that you saw in this courtroom, as well as the phone
18 records that establish the conspiracy between these two
19 individuals to engage in interstate transportation for
20 purposes of prostitution as well as the actual interstate
21 transportation of women for purposes of prostitution.

22 Now, Counts 3, 4, and 5 in the Indictment are what
23 we call substantive counts that involve Ventura and only
24 Ventura and his enticement and transportation of women on
25 specific dates that are certain in this investigation. These

1 are dates where we actually know, although it's not required
2 under the law, but we actually do know the names and
3 identities of the women that were being transported, either
4 because they were caught on surveillance, or because they were
5 actually arrested in one of Ventura's brothels.

6 I want to start with Count 3, enticement to travel
7 interstate for transportation -- I'm sorry -- enticement to
8 travel interstate for purposes of prostitution. And this
9 count relates to Margarita Santiago, September 2009, who you
10 heard from in the course of this trial, and the elements of
11 this offense are as follows. The first is that the Defendant
12 knowingly persuaded or induced or enticed or coerced an
13 individual to travel in interstate commerce; that the
14 individual did, in fact, travel; and that the Defendant acted
15 with the intent that she engage in prostitution.

16 The foundation for this charge, as I indicated, is
17 the testimony of Margarita Santiago, a woman who, at the young
18 age of 16, was forced in her home country to engage in
19 prostitution. She was sent here by the father of her
20 children, who was essentially keeping them captive in her home
21 country. They were living with her mother -- with his mother.
22 She was forced to give all her earnings to her cousins -- his
23 cousins who were in New Jersey, and, if she did not send
24 money, she could not see her children.

25 So, in September of 2009, already engaged in

1 prostitution, she got Ventura's number from another woman, who
2 was also so engaged, and she called him, and Ventura offered
3 her work as a prostitute here in Maryland. He told her to
4 come to D.C. on a bus where he would pick her up. She
5 testified that, upon her arrival here in Maryland after
6 traveling from New Jersey, she called Ventura, and he picked
7 her up in D.C. and transported her to Maryland.

8 She worked for him for one week. She went back up
9 to New Jersey for one day to deliver the money, and then came
10 back per instructions, per agreement between her and Ventura
11 that he would, again, offer her work for the following week.
12 And you saw the phone records that corroborated her accounts.
13 You saw the contacts between her and Mr. Ventura up through
14 and including the day of her arrest on September 24th of 2009.

15 And Ms. Santiago testified that, when she came here
16 to Maryland, she did, in fact, work in Ventura's brothels, as
17 well as the brothel in Virginia. And she testified that, when
18 she did so, she slept in the same room where she was meeting
19 her customers. She was not permitted to go out, that the ones
20 that cared for the brothel would bring her her food and her
21 necessities. She testified that she was sometimes treated
22 quite badly, and that, on one occasion, she was assaulted by
23 one of the customers -- an assault that she didn't report
24 because, as she described it, the customer would threaten to
25 call the police if she said anything to anyone about what had

1 happened. In her mind, it was the same police who threatened
2 Immigration -- deportation upon her, and threatened to take
3 her children away. It's no wonder that these women don't
4 report these crimes.

5 Margarita Santiago was arrested the third time she
6 came to Maryland to work for Mr. Ventura. That was at [REDACTED]
7 [REDACTED]. That was with Carlos Ascencio and another
8 woman, Helen, who came from D.C. You saw the pictures of [REDACTED]
9 [REDACTED]. There is no question what was going on there at that
10 date and time, and there was no question that Margarita
11 Santiago traveled from New Jersey to Maryland at Ventura's
12 direction to engage in prostitution.

13 Her testimony was uncontested, and it's unequivocal.
14 She would not have come here to Maryland on the occasion
15 charged in the Indictment if she had not had work offered to
16 her by Mr. Ventura. It doesn't matter that she was willing.
17 It doesn't matter that she was engaged in prostitution. She
18 only came to Maryland on that occasion -- I should say those
19 three occasions for the purpose of engaging in prostitution,
20 and that, ladies and gentlemen, makes the Defendant guilty on
21 Count 3.

22 Counts 4 and 5 are, as I said, specific instances of
23 transportation again. Count 4 relates to Bridgett Alcivar and
24 the August 2nd, 2010 transportation of her from Maryland down
25 to Norfolk or, more specifically I guess, Portsmouth, Virginia

1 at [REDACTED]. You saw Ms. Alcivar on the surveillance
2 images, and you learned that this was on a Monday. After
3 hearing all about how the operation worked, you know that
4 Bridgett Alcivar is coming to meet Ventura on a Monday. You
5 see Ventura get out of his car, help her with her bags, and
6 then she goes into his car where surveillance tracks them
7 going into Portsmouth, Virginia. ICE agents in Norfolk pick
8 up the surveillance and watch these two individuals go into [REDACTED]
9 [REDACTED], a location that was confirmed by the
10 consensual calls to be a brothel. Ms. Alcivar, we know, has a
11 history of prostitution arrests, and we know -- we know
12 without having to hear from her exactly what Ventura was
13 transporting her to do on that day.

14 You also, by the way, saw on Ventura's phone the
15 number that he had at the time, if you recall, the 3124
16 number. You could physically see the phone crossing state
17 lines to take Ms. Alcivar down to Portsmouth, Virginia during
18 the time period that surveillance was not being conducted on
19 them.

20 Count 5, again, is the same substantive count with
21 respect to Mr. Ventura only and his transport of a woman named
22 Bonita Torres Moran. This was the woman who was -- law
23 enforcement recovered with Mr. Ventura on the morning of his
24 arrest, November 15th, 2010. This was a woman who had on her
25 person a number for Mr. Ventura. You can see -- it might be

1 difficult to see, but, if you see, about halfway through this
2 calendar that was in her possession, Oscar Norfo, and a
3 number, the 3124 number that we know that Ventura was arrested
4 with that very same day, and you saw the contacts between
5 those two numbers on that day, a Monday, the day where women
6 are being brought to the next location to start their
7 workweek.

8 Ms. Bonita Torres Moran had a large amount of
9 condoms on her person. Mr. Ventura had prostitution business
10 cards as well as tally sheets on his person. Surveillance
11 picked these two up in D.C., when Ms. Moran was already in the
12 vehicle with Mr. Ventura, after watching Mr. Ventura go into
13 D.C. They then pick him up again. She's in the car. He
14 moves her across state lines on the way to [REDACTED]
15 where he's arrested, and the items that I just described were
16 seized from the vehicle.

17 You know exactly what Mr. Ventura was taking
18 Ms. Moran to do that day -- to have sex with upwards of 30 men
19 in a dark, dirty basement room, no sheets, coverings on the
20 windows, making minimal amounts of money, with Mr. Ventura and
21 his co-conspirators keeping the rest for themselves. And that
22 transportation, ladies and gentlemen, makes the Defendant
23 guilty as to Counts 4 and 5.

24 Count 6 relates to both defendants, and it's the sex
25 trafficking by force, fraud, or coercion. You heard from a

1 young woman who, in addition to being trafficked interstate by
2 Ventura and Fuertes, was also the victim of coerced and forced
3 sex trafficking at the hands of Ventura, but also to the
4 financial benefit of Mr. Fuertes, and that is a separate
5 violation of law. It's Count 6.

6 In the course of the time that Ms. Dueñas was made
7 to work for Ventura, you also learned that Ventura both
8 possessed and used firearms in connection with her
9 trafficking, and that, as to just Defendant Ventura, is
10 Count 7. I'm going to review those elements with you now,
11 starting first with Count 6.

12 Count 6 requires the Government to prove beyond a
13 reasonable doubt first that the Defendants either knowingly
14 recruited, enticed, harbored, transported, provided, or
15 obtained a person by any means, or benefited financially from
16 participation in a venture so engaged, and I see some of you
17 writing, so I want to just remind you that you will have the
18 written instructions with you back in the jury room.

19 Two, the Defendants knew that force, fraud, or
20 coercion would be used with respect to this person; three,
21 that the Defendants knew that this person would be engaged in
22 a commercial sex act -- prostitution, exchange of money for
23 sex; and that the Defendants' conduct was in or affecting
24 interstate commerce, as simple as the movement across state
25 lines, the use of telephones, the use of condoms that are

1 manufactured out of the state.

2 And I submit to you that, with respect to
3 Elements 1, 3, and 4, it's largely uncontested with respect to
4 Ms. Dueñas. The real question has to do with Element 2,
5 whether Defendants knew or had reason to know that force,
6 fraud, or coercion would be used with respect to Ms. Dueñas.

7 With respect to Count 7 -- and, again, this is just
8 the Defendant Ventura on Count 7 -- he's been charged with
9 possession of a firearm in connection with a crime of
10 violence, which is the sex trafficking of Ms. Dueñas. Count 7
11 requires the Government to prove beyond a reasonable doubt,
12 first, the Defendant committed a crime of violence, which is
13 Count 6, that he did, in fact, sex traffic by force, fraud, or
14 coercion Ms. Dueñas, and that the Defendant knowingly
15 possessed or -- a firearm in furtherance or used or carried a
16 firearm in or in relation to that particular crime.

17 The victim of these counts, Rebeca Dueñas, was just
18 19 years old when she came into this country. She came from a
19 small town in Guatemala named -- called Retantelco, where she
20 was removed by her parents from school at the age of eight or
21 nine years old, in third grade, so that she could help them
22 farm. This is a young woman who came to Maryland knowing only
23 one person, knowing of only one person in the United States, a
24 woman that you heard about called Anna, and I say "knowing
25 of," because I think you also learned that this was somebody

1 who her mother's friend had gotten a number for, that
2 Ms. Dueñas had never met this particular woman before she came
3 into the United States.

4 And, when Ms. Dueñas arrived in the United States,
5 she had no family, no friends, no education, no English
6 skills, and no money. She was illegally present in the United
7 States, and she was pregnant with a child that resulted from a
8 rape by a coyote during her transport here, an all-too-common
9 occurrence.

10 Ms. Dueñas came into this public courtroom. She
11 testified in front of a group of people who she had never met
12 before, and she testified about things, I submit, that were
13 extremely painful for her to relive. She talked about abuses
14 that she had suffered both before and after she met the
15 Defendants.

16 **DEFENDANT VENTURA:** Excuse me. Can you --

17 **INTERPRETER BLUMBERG:** Excuse us one moment. The
18 battery ran out. Apologize.

19 Thank you, Ms. Yasser.

20 **MS. YASSER:** Remember how I mentioned control?

21 **MR. RUTER:** Objection.

22 **THE COURT:** Overruled. This is argument.

23 **MS. YASSER:** It was clear that Ms. Dueñas was very,
24 very visibly upset, that she was -- felt some amount of shame
25 and embarrassment at the three years of prostitution for which

1 she was engaged. She was terrified at confronting the men who
2 were responsible for trafficking her, and that came across in
3 her testimony. She testified in front of you for over six
4 hours, over four of which she was subjected to cross-
5 examination by incredibly experienced defense counsel.

6 Can you imagine the toll that that takes upon a
7 person? And Ms. Dueñas, though at times she did have to
8 compose herself and take a sip of water before she could
9 answer a question, I submit to you that she answered the
10 questions that were posed to her by the Government precisely
11 the same way that she answered the questions that were posed
12 to her by the Defense. She was direct, she was not defensive,
13 she was not combative, and she was not evasive -- complete and
14 utter contrast to what this defendant did when he testified
15 here yesterday -- testimony that was so incredibly absurd that
16 I submit that you can just dismiss it outright.

17 Now, with few exceptions, exceptions I submit were
18 more result of confusion or lack of education, Ms. Dueñas'
19 testimony did not waver. She was credible, and her account
20 was corroborated at every single turn. Starting first, her
21 testimony about what she did for a relatively brief period of
22 time in the United States when she got here. She talked about
23 her job at the recycling plant, and we saw a photograph of
24 Ms. Dueñas working at the recycling plant.

25 Not before long, she met a man named Alex, a man

1 with a bad eye, a man who she met in a restaurant. You heard
2 about Alex from other independent witnesses in this case. You
3 heard about him from Carlos Ascencio, the same man with a bad
4 eye who was involved in prostitution. You also heard about
5 him from Special Agent Kelly, who confirmed that a brothel was
6 searched in a location in D.C. that was attributable to Alex.
7 It's a real guy.

8 With respect to Ms. Dueñas, Alex at first was nice
9 to her. He took her out to dinner. He arranged for his aunt
10 to help care for his daughter. He groomed her. That's what
11 that is. He softened her, and then he used her daughter
12 against her to get her to work in prostitution. You've heard
13 that before. That happens in these cases. It's the same as
14 what happened to Margarita Santiago. Suck them in. They use
15 people they love against them, and they compel them to engage
16 in prostitution -- work that you know, as Margarita Santiago
17 testified, and has Rebeca Dueñas told the police back in
18 September of 2008, work that no woman wants to do -- no woman.

19 Sometime later, Ms. Dueñas met Ventura. She
20 testified that Ventura was a customer in Alex's house, that he
21 was nice to her, that she told him that she wanted out of this
22 life, and that he offered to help her. He offered to take
23 care of her and her daughter. He promised her a better life,
24 one without the defacement of prostitution, and that too was
25 corroborated by an independent witness in this case, Carlos

1 Ascencio, who, before he worked for Ventura, worked for Alex,
2 and he testified that Ventura actually recruited him from
3 Alex's brothel and that Ventura would go there, and he would
4 look for the most beautiful women, the women who would bring
5 in the most amount of money, and he would go there to take
6 them as his own. And that's exactly what he did with
7 Ms. Dueñas. He went there, he saw she was young, she was
8 pretty, petite, and he knew that she would bring him a lot of
9 money.

10 Rather than using her as a regular prostitute, he
11 had a plan to lure her in, to build her trust, to make her
12 dependent on him for everything -- transportation, food, care
13 of her daughter, shelter -- and then, when he had her under
14 his control, he could direct her actions, keeping all the
15 money that she was made to earn for himself, and that, ladies
16 and gentlemen -- those false promises, those
17 misrepresentations to start is enough to support Count 6 as to
18 Mr. Ventura. You'll hear from the Judge that fraud as defined
19 under that statute is simply defined as a misstatement or
20 omission of a material fact to entice someone to engage in
21 prostitution.

22 But there is a lot more than just fraud. After
23 Ventura weakened her even more than she already was, he threw
24 her a box of condoms -- chocolates, I think she called them --
25 and told her it was time to get to work. And, when she

1 resisted, she was beaten. Some of those beatings left marks
2 on her body. RDF testified -- Rebeca Dueñas Franco testified
3 that, on one occasion after being moved from [REDACTED],
4 sometime following the police encounter there, she was moved
5 to [REDACTED], which was a location outside -- just outside
6 Baltimore City, a location that was owned, as you heard from
7 Mr. Kim, the Korean owner at that location. By Ventura, she's
8 moved there, and she was whipped with a belt when she refused
9 to have sex with Black men.

10 Now, it's safe to assume, based on the testimony of
11 others that you heard over the course of this trial, that the
12 Hispanic brothel model was such that the women had never been
13 asked -- that Ms. Dueñas had never been asked before to
14 perform commercial sex acts with men outside her own
15 community, and she told you that she refused to do so,
16 something that's not easy to admit. She admitted it.

17 And what happened to her in response was that she
18 was whipped with a belt, a beating that Defendant Fuertes was
19 present for, and she testified that, after this beating and as
20 a result of it, she did engage in the commercial sex that she
21 was directed to do, sexual acts for which the proceeds were
22 then shared between Defendant Ventura and Defendant Fuertes,
23 and that incident, again, alone supports the finding of guilty
24 as to both Defendants on Count 6 -- Ventura because he was the
25 one who actually used the force to compel the prostitution

1 acts, and as to Mr. Fuertes because he benefited financially
2 with the knowledge that such abuse was done.

3 Let me just say one thing about Fuertes before we
4 move on to Count 7. This is a man who was present at every
5 single brothel where Ms. Dueñas is recovered over the course
6 of this investigation. He's there in 2008. He's there again
7 in March of 2009. He's at [REDACTED] with Ms. Dueñas in
8 April of 2009. So, even without the testimony about this
9 particular physical assault, I submit that this is a man that
10 had to have known what was going on. He had to have known.
11 And, if he didn't know, he simply turned a blind eye to it.

12 And that, ladies and gentlemen, the Judge will tell
13 you, makes him just as guilty in the eyes of the law. And
14 don't forget either that this is the man who helped
15 Mr. Ventura, who helped him with his dirty business, helped
16 him threaten El Pelon. He had a gun. This wasn't a man who
17 was going to object to mistreatment of women. He wasn't going
18 to stop it, especially when it inured to his financial
19 benefit.

20 There is some level of forensic corroboration to
21 Ms. Dueñas' account as well. You recall that the injury from
22 the belt to, I believe, her left thigh, as well as two others
23 that she testified Ventura was responsible for -- an injury to
24 her elbow where she was pushed down on rocks, as well as an
25 injury to her left -- lower left leg by her ankle where she

1 said she was sliced by Mr. Ventura, those were noted by a
2 doctor in this case, as she testified as an expert with
3 respect to cutaneous or skin findings, and Dr. Baker
4 actually -- she independently noted four significant injuries
5 to Ms. Dueñas, which she took down in her report, one of which
6 Ms. Dueñas, you know, doesn't attribute to the Defendant but
7 was a significant physical mark on her body caused by the car
8 door.

9 Dr. Baker saw, for example, the injury to Rebeca's
10 right thigh -- left -- I can't remember, but I believe left
11 thigh -- that was consistent with the tip of a belt. She made
12 note of the injury to the elbow, which was precisely --
13 remember that star-like injury on the elbow? What did she
14 call that -- that was consistent with being pushed down upon
15 rocks. And she also felt and saw a scar -- a significant scar
16 to Ms. Dueñas' ankle that was consistent with being cut with a
17 knife. She knew that because of the shape and the size and
18 its location, a location that was not consistent with self-
19 infliction of wounds, a finding that serves to further
20 corroborate Ms. Dueñas' testimony that Ventura sliced her
21 ankle for refusing to perform what she thought was a
22 distasteful sexual act with an inanimate object.

23 Ladies and gentlemen, it's not only the abuse, the
24 Judge will tell you, that the Defendant inflicted upon
25 Ms. Dueñas directly that matters in assessing the legitimacy

1 of her fear of Mr. Ventura and the reasonable belief of hers
2 that Ventura's threats of harm to her were real, but it's also
3 her observations of beatings and threats and acts of violence
4 that she witnessed against others, all of which served to
5 combine to create a general climate of fear around Ms. Dueñas.

6 For example, the time she witnessed Ventura beating
7 a woman named Cassandra, a prostitute who had worked for
8 Ventura and was suspected by Ventura of having called the
9 police to rob one of his brothels. That also, by the way, was
10 in the presence of Fuertes, who did nothing to stop it. The
11 time Ventura hit Colmillo, a male worker of his, that you
12 heard a little bit about throughout the trial. Let me show
13 you Colmillo. And the bottom row of this chart are the men
14 that were arrested in Mr. Ventura's brothels. This is Reyes,
15 Colmillo.

16 And all the threats that she overheard being made to
17 competitor pimps. And then, finally, her very reasonable
18 belief that Ventura and Fuertes, based on her observations
19 back in September of 2008, were, in fact, responsible for the
20 murder of El Pelon. All of that is in Ms. Dueñas' head, and
21 all of it is relevant to assessing the reasonableness of her
22 fears.

23 Then of course, leading into Count 7, there are the
24 guns that Ms. Dueñas saw Ventura with and Fuertes with on
25 several occasions. Ms. Dueñas, of course, was one of five

1 people who came into this courtroom and testified under oath
2 that they observed Ventura with guns on various occasions:
3 Carlos Campos, Carlos Ascencio, Maximilliano Repalo, and
4 Ferman Martinez Hernandez. And of course he had guns.
5 Mr. Ventura was the owner and operator of at least six or
6 seven brothels in the Maryland and Virginia area, a business
7 where many other men were involved in robberies, assaults.
8 They would call the police on one another.

9 You heard from the telephone calls -- the recorded
10 calls that he was involved in -- constantly involved in sort
11 of turf wars with these other men that were involved in sex
12 trafficking. It's common sense that Ventura would have guns
13 in his operation, and simply because law enforcement recovered
14 only one of those guns as well as various machetes says
15 nothing about whether those guns existed on prior occasions.
16 Criminals get rid of their guns all the time. It's what they
17 do.

18 With respect to Ms. Dueñas, she testified that she
19 saw Ventura with guns on multiple occasions, but two different
20 guns that she remembered. One was a black automatic,
21 consistent with the same gun that Carlos Campos had seen, and
22 one was a silver gun with some cream color on it as well, or
23 maybe the cream was on the other one, and that she saw -- she
24 couldn't recall when the last time she saw that gun was,
25 whether it was before she was arrested or -- I'm sorry --

1 before Ventura was arrested in November of 2010, but what she
2 did remember is that, on several occasions, Ventura would use
3 the gun against her, that he even, on one occasion, held it to
4 her head, and, though he said that he was just joking, just
5 playing around, that it made her feel afraid, that she was
6 scared of Mr. Ventura, and, because Ventura's possession and
7 use of these firearms helped to keep her subdued, helped to
8 maintain her fear, he is guilty as to Count 7 for using and
9 possessing them in connection with sex trafficking.

10 In light of all these surrounding circumstances and
11 in consideration of Ms. Dueñas' particular station in life,
12 her education, her lack of English skills, her physical and
13 mental condition, all of which the Judge will tell you is
14 relevant and appropriate to consider, all of this in
15 conjunction with the acts done by Mr. Ventura and Mr. Fuertes
16 allow you to find that Ms. Dueñas reasonably believed that she
17 didn't have a choice but to continue performing commercial sex
18 acts as directed by Ventura, and, to be sure that Ms. Dueñas
19 felt that she had no reasonable choice but to continue
20 engaging in these acts, all you have to do is ask yourself:
21 What pregnant woman chooses -- chooses, according to
22 Mr. Ventura -- to engage in prostitution?

23 Do you recall her testimony that Ms. Dueñas, when
24 she became pregnant with Mr. Ventura's child, was hopeful that
25 this would be the time when he would allow her to stop, but

1 that he did not let her stop, that she was, in fact, injured
2 as a result of seeing clients while pregnant, and you saw the
3 surveillance images from that trip to the hospital, and you
4 saw the hospital bill that was recovered in Ms. Dueñas' house.
5 I shouldn't say "house." It was a room -- a basement room.

6 And you can literally see the misery on that woman's
7 face. You can see the vacancy and the emptiness there. And,
8 remember, she testified that, despite being pregnant and
9 despite this injury, she was made to keep working in
10 prostitution up to the day that Mr. Ventura was arrested in
11 November of 2010, the end of the investigation.

12 Ms. Dueñas was five or six months pregnant at the
13 time. You know that because of when her son was born in March
14 of the following year, and you know that Special Agent Kelly
15 identified in Ms. Dueñas' -- not Ms. Dueñas' messages, but,
16 rather, the Defendant's messages, text exchanges between her
17 and the Defendant that indicated that Ms. -- what this is,
18 ladies and gentlemen -- this is a text sent by Ms. Dueñas to
19 Mr. Ventura that confirmed that she was indeed pregnant at the
20 time and working at the time, if you look at the following
21 three messages showing her texting of addresses related to
22 prostitution, related to brothels. The first message was sent
23 on November 6th, 2010, and she sends a text at 1:35 a.m. The
24 1:35 a.m. text, which is 39b/2, Mr. Cunningham.

25 She sends a text at 1:35 a.m. telling Mr. Ventura

1 that the baby is moving a lot -- a desperate, albeit failed,
2 plea to him to let him know that she doesn't want to work, but
3 the next text reveals that her appeal didn't work. She's
4 still working, and that text is a address that she texted to
5 Ventura, consistent with her testimony that she had to text
6 him when she arrived at a new brothel or arrived at a location
7 where she was being a prostitute.

8 And, from a review of those recovered texts, you
9 also saw a text that I submit suggests this woman's complete
10 submissiveness to Mr. Ventura -- submissiveness in her voice
11 before she's encountered by law enforcement, and, at this
12 point in time, ladies and gentlemen, she's over two years in.
13 She's completely resigned to Ventura's demands. You saw where
14 he had her living. It was a small basement room, no food, no
15 real money, no means of transport, dependent on this man for
16 everything, exactly as he had initially planned.

17 Ladies and gentlemen, at the end of the day, this is
18 a case about two men who exploited, who made their living off
19 the sale and exploitation of women's bodies, of human
20 beings -- human beings who were easily exploitable because of
21 their desperate circumstances, people who are mistreated in
22 the most extreme, in the most debasing, in the most degrading
23 of ways. It's a case of two men who used violence and threats
24 of violence in order to maximize their profits and to maintain
25 control of a business. They used it in order to scare off the

1 competition. They used it to frighten law-abiding members of
2 the community, to keep them quiet, and they used it to ensure
3 for their sole use the earnings of Rebeca Dueñas.

4 Ladies and gentlemen, you have heard all the facts
5 and all the evidence that you need to support the charges in
6 the Indictment beyond a reasonable doubt, and justice is
7 nothing more than the dispassionate application of the law to
8 the facts. You are ready to do that now. The Defendants
9 deserve no more than that, and the people of Maryland and the
10 victims in this case deserve no less, and, when you return
11 from that jury room after applying the law, as you'll hear it
12 from the Judge, to the evidence in this case, you should
13 emerge with guilty verdicts on all counts as to all
14 defendants.

15 Thank you very much for your time.

16 **THE COURT:** Thank you.

17 **MR. MONTEMARANO:** May we approach, Your Honor?

18 **THE COURT:** Yes. Come up.

19 (Whereupon, the following discussion occurred at the
20 bench.)

21 **MR. MONTEMARANO:** I need a bathroom break, Your
22 Honor, if Your Honor is not inclined to break. I need a
23 bathroom break --

24 **THE COURT:** Now and before your argument?

25 **MR. MONTEMARANO:** It's a medication issue, Your

1 Honor.

2 **THE COURT:** Okay.

3 **MR. MONTEMARANO:** I mean, I'm happy to step into the
4 hall while people are setting up, cleaning up, if that's what
5 you want to do, but -- like I said, I'd be happy to step into
6 the hall next to the courtroom if Your Honor is not inclined
7 to break formally, but --

8 **THE COURT:** Well, I assume you're going next,
9 Mr. Ruter?

10 **MR. RUTER:** I am.

11 **THE COURT:** Can you miss a brief part of
12 Mr. Ruter's --

13 **MR. MONTEMARANO:** He may not even start.

14 **MR. RUTER:** Are you sure? Are you sure?

15 (Whereupon, the bench conference was concluded.)

16 **THE COURT:** Members of the jury, we're now going to
17 hear from Mr. Ruter. He has promised to take no more than 45
18 minutes of your time, so, again, I will watch the clock for
19 you. Please give him your full attention.

20 Mr. Ruter?

21 **MR. RUTER:** Your Honor, thank you.

22 Good morning, ladies and gentlemen of the jury.

23 **JURORS:** Good morning.

24 **MR. RUTER:** You know who I am. I represent
25 Mr. Ventura, and I, along with the others here, thank you for

1 continuing the tradition which you all learned about during my
2 opening of King Ethelred the Unready, who started the jury
3 system in the year about 960 A.D. It's been refined a bit.
4 It's changed a bit. You recall -- it was a long time ago --
5 that you folks would be called thegns, would have come from
6 different wapentakes, which were districts around where you
7 lived, would go out, and you'd go find the evidence, and you
8 would go seek out the truth and come back and report it to the
9 king.

10 We don't do that anymore. Now the evidence is
11 brought to you, and you listen to the evidence. You're
12 instructed about the law by the Court, and then you go back
13 into the jury room, and you make a decision as to innocence or
14 guilt in a criminal case. So I am honored to be a part of a
15 tradition which spans over a century -- many centuries, and it
16 is my hope that it will continue for many centuries to come.

17 Now, folks, the Government has been investigating
18 Mr. Ventura, as you now are aware, for several years. You
19 have heard that the Government has used lots of resources,
20 and, during this investigation, they have used many
21 cooperating witnesses. Many folks have appeared before the
22 Grand Jury. There has been multiple search warrants executed
23 on multiple locations throughout the state of Maryland and
24 elsewhere. There have been multiple searches of cars from
25 time to time. There have been consensual searches without

1 search warrants on multiple locations over the years. There
2 have been cell phone subpoenas, GPS devices on cell phones,
3 and the list goes on.

4 The Government has a right to do that. The
5 Government should do that. I only want to point out that all
6 that Mr. Ventura has is me. That's all that he had, and we
7 have the system in front of us, which is you, which stands
8 between him and the power of the United States of America. We
9 ask you to make certain that you use wisely the authority and
10 power which has been granted you by our jury system.

11 Now, folks, the subject matter of this case has been
12 very unpleasant. None of us, I am sure, enjoyed the story of
13 the unfortunate prostitution that's been going on. None of us
14 enjoyed hearing, I think, about the fortunes of those ladies
15 involved in the business. We've heard about the fact that
16 there are a lot of illegal immigrants that come into this
17 country hoping for a better place to live, and they end up
18 somehow or another doing illegal activities, this case in
19 prostitution. We've heard of the murder of an individual who
20 was murdered allegedly because he was involved in the
21 prostitution business, one El Pelon, and we've heard of a lot
22 of threats going between various business owners and managers.
23 We've heard of possible assaults, possible attempts of taking
24 of people's lives, and the like. But you, as the modern-day
25 thegns, have an obligation, like they did over a thousand

1 years ago, to listen to the evidence and return a verdict
2 without bias.

3 There is a couple of categories of people I want to
4 talk about, but, before I do, I want to enlist the words of a
5 couple of folks that I think highly of. One is John Adams,
6 and John Adams said that, as to you, as to our jury system,
7 that you are the heart and the lungs of liberty.

8 Thomas Jefferson said, as to you folks standing and sitting in
9 front of me, that the jury system is as the only anchor ever
10 imagined by man by which government can be held to the
11 principles of its constitution. There is a lot of pressure,
12 then, riding on your shoulders given the history of King
13 Ethelred to King James to King John and the magna carta and
14 the likes of John Adams and Thomas Jefferson, and I think you
15 are up to the task.

16 Trials can be a messy thing, and this trial was a
17 messy thing. Trials can evoke a lot of strong emotions, and I
18 think, in this case, emotions were brought to bear.

19 Ms. Yasser pointed out the plight of some of the ladies that
20 appeared before you, the prostitutes -- and I don't use that
21 word in a derogatory manner whatsoever. I just don't know of
22 another word I can use of the business they were in. And, if
23 you all felt sympathy and if you felt sorrow and you felt pity
24 for those ladies that you saw and heard about, you have every
25 right to do so. It would be understandable, and no one would

1 take issue with it.

2 However, it is your obligation, when you enter that
3 door and you begin your jury deliberations, to leave behind --
4 you must leave behind those strong emotions that you may feel,
5 because you cannot return a fair and just verdict if you allow
6 those emotions to run rampant in that jury room at all. You
7 must set them aside, and you replace them with what you
8 should -- that is, the facts and the law. And, once you do
9 that and you leave those emotions outside that jury room, you
10 probably will, in fact, return a just and true verdict.

11 Mr. Ventura took the witness stand yesterday. You
12 saw him all day long, and you've seen him over the course of a
13 couple of weeks, and I am going to go out on a limb and say
14 that all of you may have some strong emotions about
15 Mr. Ventura. You may not like him. You may hate him. You
16 may be angered and upset by him. And, if you believe all of
17 the evidence, perhaps you would have a right to feel those
18 emotions, but, if you feel any of those emotions, you are
19 duty-bound to leave them outside the jury room, because, if
20 you do not, you cannot return a fair and impartial verdict in
21 this case, and I implore you to make certain that you leave
22 those raw emotions, if any, outside the jury room and concern
23 yourself only with what you have heard and what you have seen
24 inside of this courtroom over the course of this trial. If
25 you do that, I am confident that you will, in fact, return a

1 just and true verdict.

2 This case is not about the murder of El Pelon. This
3 case is not about the assault of Hector Avila. This case is
4 not about the threats advanced to the Escobar family and many
5 other kinds of threats of violence that were heard throughout
6 the course of this trial. They are classic red herrings, and
7 I will explain as I go from count to count in this case. I'm
8 not going to show you any diagrams. I'm not going to show you
9 more photographs. I'm not going to show you more condoms or
10 K-Y Jelly, because I think you've seen enough of that.

11 Count 1 is, as the Government suggested, a very
12 straightforward count. If you find that a couple people got
13 together and said, "You know what? I think we're going to do
14 a prostitution business," and you think that that man played
15 any role in it, and you're convinced beyond a reasonable
16 doubt, that's the end of Count 1, and that's the end of my
17 explanation of Count 1.

18 The Government said, "Well, the Defense may stand up
19 and tell you that you have to consider force as to Count 1."
20 Well, I wouldn't do that, because that ain't the law. Two
21 elements, that's it, and I'm not going to speak any further
22 about Count 1.

23 Count 2 is a -- Count 2, 4, and 5 are the same
24 counts with different kinds of dates and people associated
25 with them. Count 2 is an actual interstate transportation for

1 the purpose of transportation (sic). It took place -- this is
2 Count 2 now -- between, I think, September of '08 to March of
3 '09. You saw lots of evidence that there was prostitution
4 going on. I would dare say, after about one and a half days
5 of testimony, you would have been convinced beyond a
6 reasonable doubt that prostitution was going on. It took a
7 bit longer for that evidently to come out throughout this
8 trial. If you find that Mr. Ventura himself was involved in
9 interstate prostitution between March 8 and 2009 -- if you
10 find that beyond a reasonable doubt, then you will return a
11 verdict as you see fit.

12 In that regard, you have lots of photographs. You
13 have lots of K-Y Jelly. You have lots of rubbing alcohol, and
14 you have even more lots of condoms, at different places. Some
15 were in Maryland, and some are in Virginia, and you've heard
16 from witnesses who saw Mr. Ventura here and there and
17 everywhere, and you'll have to decide whether or not you
18 believe that he was involved in the actual interstate movement
19 for prostitution purposes during that time frame. And I will
20 speak no further about Count 2.

21 I want to skip forward to Count 4 and 5. I'm going
22 to skip Count 3, because that's a different kind of a count.
23 Count 4, as pointed out to you, involves the actual interstate
24 movement for prostitution purposes of Bridgett Alcivar. I may
25 not be pronouncing her name correctly. And Ms. Yasser pointed

1 out she wasn't brought in, but you did see a photograph of
2 her. She was standing near one vehicle, and Mr. Ventura was
3 standing near another vehicle. This was on August the 2nd of
4 2010. That's the date. You'll have those photographs back
5 there with you. And there was testimony from Special
6 Agent Kelly, I believe, that he said he followed that vehicle
7 from one place to the next, and he saw it travel interstate.

8 That's the testimony. That's the evidence you have
9 as to Count 4. The Government wants you then to take that
10 evidence and to extrapolate it and say, "Well, it's got to
11 be -- it's got to be obvious that the reason that that
12 transportation took place was for the purpose of
13 prostitution."

14 Now, folks, I beg to differ. You need to be a
15 little bit more analytical about those matters than just
16 saying, "Well, there is some pictures, and there he is, and
17 there she is, and they did go from here to there." What the
18 Government wants you to do is to assume that that was about to
19 happen -- that the movement interstate occurred for the
20 purpose of prostitution.

21 Now, I am not stupid, so I know you're not stupid.
22 Could it have been? Could it have been for the purpose of
23 prostitution? Yes, it could have. But you have to find
24 beyond a reasonable doubt that that was the purpose for that
25 movement. The Government says, "Well, you know, she was

1 arrested once for prostitution, that lady." Well, that's
2 true. Evidently, she was arrested once for prostitution. So
3 the Government wants you then to extrapolate -- not a good
4 idea in law. We have this thing called beyond a reasonable
5 doubt, so not a good idea at all. They want you to take that
6 information and then -- and start over here, and they want you
7 to leap over here.

8 Folks, you cannot do that. That evidence is not
9 adequate for you to be convinced beyond a reasonable doubt
10 that that was the purpose for that particular transportation
11 on that particular date, and we're asking you to return a
12 verdict of not guilty on Count 4.

13 Count 5 is the same act. It's, once again, this
14 interstate transportation for purposes of prostitution, and it
15 deals with another lady. You saw her photograph, and I have
16 already forgotten her name. Ms. Yasser just told us her name.
17 That was Bonita Torres Moran, and we know -- and this count,
18 folks, is Count 5. The date is November 15th, 2010. And we
19 know from the testimony in this case that she was with
20 Mr. Ventura when they were -- when he was arrested, and she
21 had condoms on her and whatever else she had. Condoms, I
22 think, is what the testimony was. He picked her up in D.C.,
23 and they were arrested in Maryland.

24 Question: Is it possible that they were going from
25 D.C. to Maryland for the purpose of her being involved in

1 prostitution? Of course it's possible, but that's not the
2 test in our criminal justice system. The test is: Do you
3 believe beyond a reasonable doubt that that was the reason
4 that he picked her up and they were stopped in Maryland? That
5 is the question.

6 You may believe that circumstantially. You may not
7 believe that circumstantially. I submit to you that those
8 facts alone simply should not carry the day in your minds if
9 you leave any bias and any prejudice outside that jury room
10 door. We ask you, therefore, to return a verdict of not
11 guilty as to Count 5.

12 Count 3, ladies and gentlemen, deals with
13 enticement. That's enticing a person to commit interstate
14 prostitution, and His Honor will have -- there is a whole
15 bunch of pages, I think, that deal with that particular
16 instruction which he will read to you a little bit later on.

17 And Count 3 takes place in September of 2009. So
18 we're talking here about September 2009, and we're only
19 talking about Margarita Laona Santiago. So this is where it
20 becomes really important to be separating all this smoke
21 concerning all the violence swirling around everything, and
22 you have to hone in on the precise elements and precisely what
23 we're talking about. We're talking here about September of
24 2009, and we're talking about Margarita Laona Santiago.

25 And Ms. Yasser did lay out the facts, as I recalled

1 them. What I recall of it doesn't count; it's only what you
2 recall. But my recollection was that she did say it is all
3 unfortunate, it's all bad, it's all horrible that she was
4 forced into prostitution by her husband when she was in the
5 country of Mexico, her home country. She was prostituting
6 there because her husband made her. And then he made her move
7 to the United States to prostitute herself, and she did. He
8 sent her to New Jersey where he had some cousins, and she
9 worked for them. Evidently, she gave all the money to them,
10 and sometimes they'd send money back to her home country.

11 She had a friend, and the friend gave her
12 Mr. Ventura's phone number. She called Mr. Ventura. That's
13 what the Government said. That's what Ms. Santiago said. He
14 did not call her. Ms. Yasser cleverly said that Mr. Ventura
15 offered her to come to work. No, he didn't. She offered him
16 to come work for him.

17 That's a very significant and important
18 differentiation. She didn't call and then wait for
19 Mr. Ventura to say, "Is this a girl that wants to come and
20 prostitute herself?" Of course not. She called and said,
21 "This is who I am, and I'm looking for work -- prostitution
22 work," and she then said that Mr. Ventura said, "Well, fine.
23 Drive -- take a bus. Take a bus." He didn't send her money.
24 He didn't drive to New Jersey to get her. She got on the bus,
25 and she came to D.C., and she, in fact, worked at

1 [REDACTED], she said. At the end of the week's work, she
2 was paid. She went back to D.C., back to New Jersey, stayed
3 overnight, gave all her money to her cousins, and drove back
4 by bus. She did it again the second week. She did it again
5 the third week.

6 Question: Is that persuading her? Did Mr. Ventura
7 do anything to persuade her to engage in interstate
8 prostitution? He did not. Did Mr. Ventura do anything to
9 induce her? He did not. Did he do anything to entice her?
10 He did not. And did he do anything to coerce her? He did
11 not.

12 Now, he's guilty of prostitution, folks, but he's
13 not charged in Count 3 with prostitution. He's charged with
14 enticing a person to engage in interstate prostitution.
15 Clearly it's interstate, because she went from New Jersey to
16 Washington, D.C., to Maryland. You all can forget that
17 element. It's all been made out. The problem is: Was she
18 enticed or coerced, et cetera? And the answer is, clearly and
19 unquestionably, she was not. And, because of that, you must
20 find Mr. Ventura not guilty of Count 3.

21 Count 6 is captioned "Sex Trafficking By Force,
22 Fraud, or Coercion," and this too has a lot of moving parts,
23 and Judge Quarles will explain all that to you later, and this
24 occurred from September of '08 all the way through November of
25 2010. The featured witness as outlined by Ms. Yasser is

1 Ms. Rebeca Fuentes (sic).

2 First thing you have to find, folks, was whether or
3 not she was recruited, or was she enticed, or was she
4 transported, or was she harbored? You heard the Government's
5 theory is that she was enticed, and Ms. Yasser wants you to
6 believe that Mr. Ventura groomed her. The testimony is, from
7 I think Mr. Ventura -- and you can disregard all his testimony
8 if you want, you can believe all if you want, or you can pick
9 and choose as you want, because that's your prerogative. You
10 are the finders of all the facts.

11 And that's just as true as to Ms. Dueñas Franco.
12 You can accept every word she said. I'd suggest you not do
13 that, and I'll point out why in a moment. You can take some
14 of what she says, or you can disregard everything that she
15 says, because that is your constitutional prerogative as the
16 trier of the facts in this case.

17 The enticement, says the Government, was because
18 Mr. Ventura went to Alex's brothel in Washington, D.C., and he
19 picked out the prettiest girls so he could bring them online
20 with him. The testimony is that he did have sex with her at
21 Alex's brothel. The testimony is evidently Mr. Ventura --
22 this is not through him; this is through some other witness,
23 and I've forgotten the name -- did frequent brothels.
24 Mr. Ventura testified that he liked women, a variety of women,
25 and evidently his conduct would seem to corroborate that given

1 the fact that he has children with Yenis, he's married to
2 Myra, he's had one child with Rebeca, perhaps a miscarriage
3 with Rebeca as well. So certainly there is evidence to
4 corroborate that he enjoys the company of women.

5 Folks, you have to decide whether or not you believe
6 that the evidence does convince you beyond a reasonable doubt
7 that those encounters, whenever they occurred -- by the way,
8 we never did get dates. We never really know where we are.
9 And that's as to Ms. Franco as well as anybody else who has
10 testified, a couple of folks, and sometimes you can nail it
11 down because the police happen to show up, and there is a
12 search warrant, and they took pictures. You can nail that
13 down, but, when it comes to testimony of these witnesses, you
14 can't tell -- I can't tell what universe we're in or what
15 state we're in or what house we're in or what exactly
16 happened. That's me. You're the ones who count. So,
17 notwithstanding, you have to find whether or not the purpose
18 that Mr. Ventura had when he went down there and slept and
19 paid Ms. Franco was to entice her to come work for him.

20 I do not believe the evidence shows that whatsoever.
21 He and she became romantically involved. They -- I use the
22 word with caution -- dated one another. She had sex with him
23 obviously without a condom. It's a big deal. I don't mean to
24 be crude. It's a big deal because it's obvious that, when a
25 woman is working in prostitution, they are -- men are wearing

1 condoms. That's why there are so many of these condoms here
2 in this courtroom, over there, and that was not the case.
3 It's a big deal. It's a sign of affection, whether we like it
4 or not. We have to deal with their reality; not our reality.
5 And so the relationship was being built. There is no grooming
6 going on. He cared for her, and she cared for him.

7 You have to find this recruitment, enticement,
8 transportation, or harboring. You can't find, folks,
9 recruitment or enticement. The question is: Can you find
10 transportation or harboring? You should disregard recruiting
11 or enticement. Those are clearly not found. The question,
12 though, is whether or not you can find beyond a reasonable
13 doubt that he transported or harbored her in interstate
14 commerce for the purpose of performing a commercial sex act.

15 That's a different story. You might find that he
16 did that. We don't concede that, but you may find that based
17 upon the myriad degree of evidence that you have. I don't
18 think there is any evidence that there is surveillance of the
19 two of them going between D.C. and Maryland or between
20 Maryland and Virginia or whatever. We do know this: We have
21 photographs from the Virginia Beach. That's a different
22 state. That's interstate, but you have to decide whether or
23 not that interstate was for the purpose of performing a
24 commercial sex act.

25 She says it was. Mr. Ventura says it wasn't. You

1 have to decide if you believe either one of them, but, other
2 than that, I'm not aware of any other compelling evidence that
3 you all can look at to support whether or not there was a
4 transportation of Ms. Franco over state lines for the purpose
5 of engaging in interstate prostitution.

6 You must be cautious with Ms. Franco's testimony,
7 folks. Ms. Franco was raped before she ever made it into this
8 country at a young age. She worked in the prostitution
9 business almost as soon as she got here with Alex. She says
10 that Alex beat her repeatedly, without being specific when,
11 where, how, or why. She said that she saw Alex and Ventura,
12 who were competitors, with a gun not too long before she was
13 arrested. Doesn't know where it came from. Alex took it
14 away. Enemies -- enemies of each other, him playing with a
15 gun while she's standing around.

16 She had one story on direct examination when the
17 Government questioned her, and I think you all recall me going
18 to and from my trial table up to her with various documents in
19 my hands. Those documents were prior interviews that she gave
20 with these folks, and what happened was her testimony changed
21 from the direct testimony of her questioner, whether it was
22 Mr. Cunningham or Ms. Yasser, to cross-examination when I was
23 questioning her.

24 Now, folks, this lady was interviewed by police on
25 September 28 of 2008. She was interviewed by these folks and

1 tape-recorded twice on November 15th of 2010. She appeared in
2 her Grand Jury on December 7th, 2010. She was interviewed
3 again on May 2nd, 2011. She was interviewed again on
4 October 19th, 2011. She was interviewed again on
5 October 25th, 2011. She appeared in the Grand Jury again on
6 July 27th, 2012. And she then came in to this courtroom and
7 told a story, which she changed on cross-examination.

8 She is a witness that was promised on September 28th
9 of 2008 that, "We want to help you," says Detective
10 Carraballo. "We will help you get your child back," who had
11 just been taken from her two days prior. "If you feel unsafe,
12 we'll take care of you. If you need a letter from us, being a
13 member of the Homicide Division of the Anne Arundel County
14 Police Department, we will write that letter. We will help
15 you."

16 She left the police department, and, the next day,
17 she's continuing in prostitution. You all can believe if you
18 want that she did that because she had no choice. She was so
19 afraid and so concerned for her safety or the safety of her
20 daughter that she could not take the request -- the offer by
21 the Anne Arundel County Police Department and DSS. She had to
22 return to her life of prostitution. You can believe that if
23 you want, but you ought not given the history of Ms. Franco's
24 evolutionary testimony and her evolutionary ability to recall
25 the facts of her case.

1 You not only have to find that she was enticed or
2 recruited. You then have to find that she was coerced by the
3 use of force or fraud or threats of violence, and you have to
4 find that that force or threats or fraud were the reason that
5 she continued in prostitution.

6 Now, folks, there is ample evidence that these two
7 had a relationship, the kind of which none of you would wish
8 to be involved in, but the fact is they were engaged in an
9 extraordinarily toxic relationship as boyfriend and
10 girlfriend. If you believe that she was beaten -- and I
11 submit that there is reason to believe that she was not beaten
12 by this man. The only evidence you have is her word. But, if
13 you believe that she was beaten, you have to find that she was
14 beaten for the purpose of engaging in interstate prostitution.

15 In other words, you have to exclude, beyond a
16 reasonable doubt, that this beating or beatings were not the
17 result of a toxic relationship, otherwise known as domestic
18 violence. Is it possible that these beatings which she
19 described were the result of a toxic relationship which
20 involves domestic violence? The answer is: Absolutely and
21 positively.

22 Folks, it's important to note, I think, that, of
23 these various injuries that she said she sustained, she
24 indicated that only clearly that one of them occurred, she
25 says, as a result of being involved in the commercial sex

1 trade. That was the belt to the thigh, because she alleges
2 that she would not have sex with a certain man that had come
3 to be there as a customer. We don't know when that took
4 place. We don't know whether Mr. Ventura was there on the
5 premises, which would be unusual, because no one else said he
6 ever was there on the premises, just to collect money, or
7 whether it happened at home, but she said that she went
8 through with the sex act.

9 Doesn't that infer, then, that Mr. Ventura was there
10 on the premises at the time and took his belt off and slapped
11 her with it, and then she had to go back in and have sex with
12 this man she didn't want to have sex with? The answer is:
13 Yes. That's the way it came out. Is that likely? Absolutely
14 not likely at all. Mr. Ventura doesn't hang around the
15 brothel to watch the ladies perform. The testimony is he
16 comes on occasion to pick up money. That's the testimony. So
17 that doesn't make any sense at all.

18 And then we have the fact that the other injuries,
19 we're told, came about because she refused to put an inanimate
20 object inside of herself, but we were never told who it was
21 that was supposed to put the inanimate object inside of her.
22 Was it Mr. Ventura? Well, if it was Mr. Ventura, then he
23 wouldn't be trying to commit a commercial sex act with her.
24 He wasn't going to pay her. It would have nothing to do, in
25 other words, with a commercial sex act.

1 I don't like it, and you don't like it either, but
2 you have to be analytical in deciding whether or not those
3 injuries which she says were sustained as a result of her
4 being cut, as a result of her hand being slammed in a door --
5 they didn't happen at the same time, I guess -- and then
6 another injury on her elbow when she was pushed down -- it
7 sounds like they occurred at different times. You were never
8 told -- ever told that those injuries were sustained as a
9 result of her interstate prostitution or her failure to
10 perform, her disobedience to perform. Folks, if those things
11 happened, they happened because of horrific domestic violence.
12 That's a separate crime not charged.

13 The Government is so desperate to prove to you that
14 Mr. Ventura is the one who actually performed these injuries
15 to Ms. Franco that they bring on Dr. Baker. Dr. Baker was a
16 highly unusual expert witness, because experts usually give
17 you a conclusive response to a conclusive issue. Well, what
18 did Dr. Baker tell you? She told you that she had no opinion
19 about most of the injuries, I think with the exception of one,
20 until Ms. Franco told her what happened.

21 So she looked at an elbow. It's got a star mark on
22 it, and she said, "Yep, that's a star mark. You fell down."
23 "Ms. Franco, what happened?"

24 "Mr. -- Mr. Ventura pushed me down."

25 "Oh, that's what it is? All right. Mr. Ventura --"

1 that's her opinion. That's not a professional opinion.
2 That's desperation. That is desperation, and you don't even
3 know why she was pushed down to the ground. It could be
4 because he's a nasty guy, and, if he is a nasty guy and he
5 pushed her down, and he did not push her down for the purpose
6 of her engaging in interstate prostitution, she has not made
7 out evidence which would convince you beyond a reasonable
8 doubt that the injury occurred as a result of her failure to
9 engage or engaging in interstate prostitution.

10 **THE COURT:** Five minutes.

11 **MR. RUTER:** Thank you, Judge.

12 You also have to find, folks, it's for pecuniary
13 gain. This is, in fact, where we lawyers get paid to be
14 precise. Ms. Franco told you that she never once saw a dollar
15 exchange hands. I asked her specifically on cross-
16 examination, "Did you ever get paid?"

17 "No."

18 "Did you ever see any customer hand money to a
19 doorman?"

20 "No."

21 Now, do you think that money exchanged hands? Well,
22 it could have, but the Government has not offered one piece of
23 evidence that any financial benefit occurred to Mr. Ventura,
24 and they're obligated to do that. They're obligated to dot
25 their Is and to cross their Ts, and you're obligated to make

1 certain that they do it.

2 Count 7, folks, is the firearm charge. The firearm
3 charge is tied directly to Count 6. If you find Mr. Ventura
4 not guilty of Count 6, the verdict form which you're going to
5 see tells you, you needn't consider yourself with Count 7.
6 Why? Because Count 7 alleges that the firearm was possessed
7 for the purpose -- the purpose of furthering the sex-
8 trafficking crime of Count 6, which only involves Rebeca
9 Franco.

10 So, if you find him not guilty of Count 6 -- and you
11 should -- then you must find him not guilty of Count 7. And,
12 folks, if you were to find that there were any kinds of
13 threats of violence, if you were to find that he knocked her
14 down and hit her, that doesn't fulfill Count 7. Remember,
15 it's got to be the gun. It's got to be a firearm.

16 Yes, she testified that she had seen the firearm.
17 You have to decide: When she viewed that firearm, when she
18 saw that firearm, did that further the sex-trafficking offense
19 as it relates to her and her alone? There is no testimony,
20 once again, that can tell you beyond a reasonable doubt that,
21 when she saw those guns, whenever she saw them -- Lord knows.
22 We don't know when. We don't know under what circumstances.
23 We know nothing. But you have to find that those guns were
24 viewed by her, seen by her for the purpose of furthering the
25 sex crime of Count 6, and the Government has not given you one

1 piece of evidence to connect those two together.

2 What they gave you was all these red herrings about
3 all this violence going on hoping that you all would go back
4 in the jury room and say, "Boy, this is all a lot of violence
5 going on here, and I'm going to stamp guilty on this." That's
6 what they're hoping for. If you leave your raw emotions, if
7 any, outside that jury room, you will find Mr. Ventura not
8 guilty of Count 3, you will find him not guilty of Count 6,
9 and you will find him not guilty of Count 7. There is no
10 question about that. The rest, I leave for your
11 consideration.

12 Folks, thank you so very much for these two weeks
13 together.

14 **THE COURT:** Thank you, Mr. Ruter.

15 Members of the jury, we're going to take the morning
16 break now. Please remember: Don't discuss the case among
17 yourselves or with anyone else. I will call for you at noon.

18 **THE CLERK:** All rise. This Honorable Court stands
19 in recess.

20 (Jury excused.)

21 (Recess taken, 11:36 a.m. - 11:56 a.m.)

22 **THE CLERK:** All rise. This Honorable Court now
23 resumes in session.

24 **THE COURT:** Ready for the jury, counsel?

25 **MR. MONTEMARANO:** Yes, Your Honor.

1 (Jury enters.)

2 **THE COURT:** You may be seated.

3 Members of the jury, Mr. Montemarano has promised to
4 take no more than one hour, so, again, give him your full
5 attention. I will watch the clock.

6 Mr. Montemarano?

7 **MR. MONTEMARANO:** Thank you, Your Honor, counsel.

8 If I wait another five seconds, I can say good
9 afternoon, ladies and gentlemen.

10 When I got up this morning, I thought I was ready to
11 do this. I finished my final draft and edit and redraft of an
12 outline for my closing argument, but, as some famous boxer
13 once said, "Everybody's got a plan until they get hit." So I
14 look outside, and it's raining, so I realize I'm going to wear
15 older shoes that I don't really care about if they get wet,
16 and then of course I heard about the news from Boston.

17 So I suggest, ladies and gentlemen, when you go back
18 there in about an hour and a half after Mr. Cunningham and I
19 are both done, I want to take a moment to think about the
20 friends and family of the MIT police officer who died in the
21 line of duty last night protecting all of us. It may not
22 sound like much, Campus Police, but he paid the ultimate price
23 in service, and, having spent five years in the south side of
24 Chicago in a not a very nice neighborhood in college, I have a
25 very fond memory of the UC Campus Police.

1 The officer, whose name I don't even know, died in
2 service of something bigger than me, and, ladies and
3 gentlemen, that's why we're here. This is bigger than us.
4 It's bigger than these gentlemen. What we have here is a
5 chance for the citizens to be the government, to play the role
6 the Constitution ordained to make decisions beyond a
7 reasonable doubt about people who are charged by the
8 Government with crimes.

9 I don't want to sound repetitive when I thank you
10 for your attentiveness. I've been very impressed how
11 attentive you've been when this case has dragged a bit, but
12 it's only by doing that that you fulfill your role, by paying
13 attention and thinking and keeping your independent judgment.
14 And I suggest, ladies and gentlemen, it is that independent
15 judgment which is the ultimate protection for Kevin Fuertes.

16 I'm going to focus on only a few parts of the case.
17 I suggest to you that, if you come to the decision that's the
18 appropriate and correct one on those parts of the case,
19 everything else will fit together, like if you're putting
20 together a puzzle. Once you get most of the pieces in, where
21 the last couple go is very obvious. Also, I want to focus on
22 a few things, because -- let's be honest -- most of this case
23 had nothing to do with Kevin Fuertes.

24 What would you say? Ten percent of the evidence had
25 something to do with him directly, his various arrests for

1 driving offenses, and about 10% had to do with his
2 interactions with Mr. Ventura. Most of this case was all
3 about Mr. Ventura, but this case is not about Mr. Ventura.
4 I'm here to talk to you about Mr. Fuertes.

5 I suggest to you that, at the end of the day, this
6 case is all about Rebeca Dueñas Franco, and I'd like to talk
7 with you briefly about what she had to say in the various
8 times that she spoke with the police. When she first spoke to
9 the police on the 28th and 29th, that night of September of
10 '08, she had been with Mr. Ventura for perhaps a month in her
11 testimony, let's say September -- three, four weeks.

12 She's willing to speak with police. She admits her
13 role in prostitution. She admits his role in prostitution.
14 She knows Detective Hartlove is there to investigate a murder.
15 She's asked about the murder. She says nothing, not a word,
16 does not point a finger at Mr. Ventura, does not point the
17 finger at Mr. Fuertes.

18 Two years and two months later in November of 2010,
19 she's spoken to twice. Those are tape-recorded. Nothing. A
20 month later, three weeks later, she's in front of the Grand
21 Jury. "Do you know anything about El Pelon's murder?"

22 "No."

23 Only in May of 2011 does she now have her story
24 about what she said she saw on the night of El Pelon's murder.
25 Fine. And all she can say is, "I saw blood stains on Kevin's

1 clothing." There is no description of the clothing, no
2 description how that clothing might match with the eyewitness
3 accounts of what the shooter wore, no forensic evidence. And,
4 if she saw stains, how would she know they're blood? It's a
5 good question. Or did she not see anything?

6 But let's talk about what else she told us,
7 beginning in September and through her testimony. She says
8 Kevin Fuertes lived with her at [REDACTED] and [REDACTED].
9 She tells them, when she met Kevin, she was, without any
10 question, German Ventura's girl. They had a personal
11 relationship. She was different than the other girls.

12 And we know that, ladies and gentlemen, because we
13 have seen the photographs. They're in Section 26 of the
14 exhibit book. You've seen them, ladies and gentlemen. You've
15 seen all the elements. This is just for you to remember. And
16 these are taken years after she first talks to the police,
17 years after she's first offered assistance by the police,
18 years later. Let's be honest. That's what Kevin Fuertes knew
19 about her relationship with German Ventura.

20 And you remember her description of how the
21 relationship began: Perfect. Ladies and gentlemen, that word
22 is not equivocated. There is no question of how she felt
23 about the relationship when it began, because she was special,
24 and she was different. This was not a relationship based upon
25 sex in the sense of commercial sex. They were boyfriend and

1 girlfriend, and she had her job, which doesn't make sense as
2 to why she gave her money to Mr. Ventura. She was different.
3 They pooled their money. It's no different than in suburbia
4 where one family might have one checkbook even if they have
5 two incomes.

6 You know her testimony about Mr. Ventura and the way
7 the relationship began is true, because she continued in this
8 role with him through 2010 when he was finally arrested. It
9 continued when she testified in this building before the
10 Federal Grand Jury while she was pregnant with his child.

11 Now, I'm not going to try to pretend in any way,
12 shape, or form this is the perfect relationship. I suggest to
13 you that, if you don't even consider it being a relationship,
14 you would not be wrong. It involved a fair amount of
15 violence, domestic violence, prostitution, conduct which
16 should shock anybody, even an attorney with 25 years of
17 criminal defense experience. You can't understand it, but
18 none of us have ever been Rebeca Franco.

19 And let's be honest. It's undeniable that some
20 relationships involve yelling, fighting, hitting. It
21 shouldn't happen. It may not be the way you would conduct
22 your life, but we know it happens. It's not unusual. It's
23 not even rare. That's you. That's me. It's not what
24 Rebeca's life involved. Fair enough.

25 Now, my question then becomes: Don't look at it

1 from your point of view. Don't look at it from my point of
2 view. Look at it from Kevin Fuertes, who came from Honduras,
3 illegal immigrant, and he sees German Ventura raise his hand
4 to Rebeca, one time. That was Rebeca's testimony. She said
5 that Kevin was present once when she was struck by German.
6 Must he be condemned for failing to object that one time?
7 Must he be condemned for saying that one time, "They don't get
8 along as well as they should. German is an abusive lover"?

9 Does that mean he's buying into sex trafficking by
10 way of force, fraud, coercion? I suggest not, ladies and
11 gentlemen. There is no pattern for him to fit that into.
12 It's an outlier. It's Rebeca's testimony that it happened one
13 time, and she and German -- and certainly this happened at
14 some point before March of 2009 when he left Maryland, because
15 Rebeca said it happened in Maryland as I understood her
16 testimony. Your recollection controls.

17 So let's consider what happened thereafter. This
18 happens no later than March of '09. She continues through the
19 end of 2010 to make those photographs with German. Does that
20 sound like someone who is necessarily oppressed? Now, I'm not
21 saying Rebeca wasn't. I'm not saying Rebeca wasn't abused.
22 I'm saying: What did Kevin see? What did Kevin know? What
23 could he abstract from her remaining?

24 And that's not even including what we know about
25 Rebeca's conduct when she's blown off an opportunity to be

1 helped on September 29th, 2008 by the police, who offer to
2 write letters, who end up going to court on her behalf, and
3 she goes back to [REDACTED]. Does that sound like someone who is
4 being oppressed at that point in time, or does that sound like
5 someone who is hopeful of rescuing, of saving, of continuing a
6 relationship which she considered perfect?

7 There is no testimony, I suggest to you, that we've
8 heard of violence by Kevin towards anybody. There is no
9 testimony of violence by German towards any other girl. Once
10 again, if German is abusing other women and abuses Rebeca,
11 that's willful blindness. At some point, "What are you
12 doing?" Quote, you know, Admiral Nelson, telescope to the
13 blind eye, "I don't see the signal." That's what willful
14 blindness is, ladies and gentlemen.

15 No, this is not willful blindness. This is not
16 reckless disregard. Seeing something as plain as the nose on
17 your face and refusing to accept it for what it means, we have
18 nothing like that, because German doesn't do that to anybody
19 else. Think about the testimony you heard consistently from
20 the people involved in prostituting -- Ascencio, Margarita
21 Santiago. She called -- Margarita -- Ventura to get work.
22 She was not solicited. She said, "I'd like to go to work,"
23 knowing of course he would know what that meant. Is there any
24 force, coercion, any violence directed towards her? Of course
25 not. Would she come if there was? Of course not.

1 Other times, we've heard testimony that Ventura
2 would call girls to get them to come work for him. "Come do
3 me a favor." Do you do favors for strangers? Do you do
4 favors for violent individuals, or do you do favors for people
5 who treat you well and compensate you? There is no force
6 there.

7 We heard the testimony from both Ascencio and from
8 Santiago, if a girl wanted to go, it was no big deal. Even in
9 the middle of the week, leaving the pimp, Mr. Ventura,
10 shorthanded for the rest of the week. The phrase was she
11 would cash out and leave, get paid, hit the bricks. She'd be
12 replaced. Girls come, girls go. The brothel goes on. It is
13 no big deal, because the girls were always paid. Why? Who
14 works for free? At the end of the day, even as much as you
15 may enjoy your job, it's nice to get a paycheck, and I don't
16 suggest that these girls enjoyed their job, so they had to be
17 paid, didn't they?

18 Both Carlos Ascencio and Margarita used almost the
19 same language to describe that girls were paid, girls were
20 never forced. And, using your common sense, doesn't that
21 figure? After all, there are plenty of Hispanic brothels
22 operating. You heard that -- lots of them. Mr. Ventura
23 operated several, but let's -- I mean, there were other ones
24 and other people. We had Alex. We have all the other pimps.
25 The girls make the rounds from pimp to pimp, operator to

1 operator, week in, week out.

2 Do I want to go -- having been paid this week and
3 the week before, do I want to go to someone who I don't think
4 will pay me, who I have any suspicion won't pay me? Does that
5 make any sense, if this is a job, if that's how you're
6 treating it? If somebody gets a reputation for shorting the
7 girls, for cheating the girls, for treating them poorly, for
8 abusing them, for directing physical violence toward them,
9 what do the girls do? Vote with their feet. Common sense,
10 ladies and gentlemen. It's the only way to understand how
11 this works. And where would Ventura be then if they vote with
12 their feet, if he's abusive?

13 I invite your attention, ladies and gentlemen -- I'm
14 just going to show you one. This is one I believe that
15 Mr. Cunningham showed you on behalf of Ms. Yasser during her
16 closing argument. This is Exhibit 13b/1, but there is a whole
17 bunch of others. There is 17g, 201, and 21b. So you
18 understand, the first number refers to where the evidence came
19 from. It's grouped by the Government when it numbers them
20 regarding one address or another address. So those are four
21 different digits I gave you -- 13b/1, 17g, 201, 21b. They're
22 from different brothels, they're from Ventura's home, they're
23 from Ventura's car, and they're, in every case, a tally sheet.

24 We understand what they are. It's been explained.
25 The letters of the week in Spanish beginning with "L" for

1 lunes, which is Monday, as I understand, and I think Tuesday
2 is an "M" for martes like Mardi Gras, which is Fat Tuesday; I
3 know that much. But it's more than that. We had seized from
4 various places the playing cards with the hole punches as a
5 means of accounting, the tokens where people would keep track
6 of how many people they'd service by being given something as
7 a -- I can't think of the word -- an actual sign of the work
8 they've done and therefore should get paid for.

9 So what's this all about? I'll tell what you it is.
10 It's what it seems to be. It's a means by which to ensure the
11 girls get paid for the work they do. It is kept by the
12 doormen. The girls keep them in their own little notebooks.
13 You saw those in evidence. Ventura keeps them in his home and
14 in his car. He's keeping track, too. Why? To keep the girls
15 happy, to keep them coming back, because, if they come back,
16 he continues to make money.

17 I said to you -- excuse me -- two weeks ago this is
18 a case about prostitution, that there was no question that
19 prostitution took place. Never suggested otherwise. But of
20 course the case is not about just prostitution, and that's
21 where you come in, ladies and gentlemen.

22 In addition to the pay, it was a business without
23 coercion. Let's be honest. Girls didn't have to be coerced.
24 They chose to do this. They called Mr. Ventura. He solicited
25 them. They came, they worked, they left. No ropes, no

1 handcuffs, no flexi cuffs, no cable ties, no means of
2 restraint. No weapons. They weren't beaten, nothing.

3 And that's of a piece of what you heard about Kevin
4 Fuertes. No violent conduct on his part. No violent conduct
5 by German Ventura in his presence. Why would he think there
6 is force, fraud, or coercion going on with regard to these
7 houses of prostitution? Now, what you heard about
8 German Ventura is threats, promises. German Ventura, as I
9 have written here, the windbag, running his mouth, and I wrote
10 this, ladies and gentlemen, not on Thursday night. The first
11 draft I wrote on Wednesday night before Mr. Ventura's
12 performance yesterday. So you know who Mr. Ventura is.

13 I think they say in Texas "all hat and no cattle."
14 He's so big and bad that not only does he not do anything; he
15 calls and has the police try to take care of the competition.
16 Mister big and bad, I don't think so. That's what Kevin saw.
17 Of course the Government's going to argue, "Oh, but,
18 Mr. Ventura arranged to have Hector Avila attacked." No
19 doubt. November of 2010, no doubt. That's a year and a half
20 after they tell you Kevin has left the jurisdiction. He's all
21 gone from Maryland.

22 But here is the interesting part. I'm going to take
23 you out of November 10 of 2010 and take you back to the murder
24 of El Pelon. You heard Ms. Yasser characterize the claims of
25 Sylvia, the girlfriend of El Pelon about the threatening phone

1 calls, except we know the phone calls took place as much as
2 eight months before. We have no testimony that she answered
3 the phone. It's not her phone is being called. It's
4 El Pelon's. She has no idea what's said during those calls,
5 and she says they were threatening. Fine. There is no
6 question that the phone numbers of these individuals are on
7 El Pelon's phone. Fine. There is no linkage of the two.

8 But let's talk about what we don't hear. Who here
9 has ever had the following been told to you, "You got a phone
10 call"? Does that do you any good? Normally you get told,
11 "You got a phone call. Here is the number. Here is who
12 called." What am I talking about? The testimony in this
13 trial is that Ventura knew El Pelon for at least five, if not
14 eight years. He's talking to his inamorata, girlfriend,
15 wife -- I'm not sure what the relationship is between him and
16 Sylvia. Would he not say to her, "I got a threat from that
17 jerk, Ventura. I got a threat. It's Ventura's number. Why
18 is he doing that? I thought he was my friend," or, "I'm
19 scared of Ventura," or anything like that? We don't hear
20 that.

21 So ask yourself, ladies and gentlemen: Does that
22 make sense? "I got a threatening phone call, but I don't
23 happen to --" isn't that the first thing you want to know, is
24 who is threatening you? I mean, just common sense. When I
25 come to court, do I want to bring Mr. Fuertes' file, or my

1 other clients'? I mean, just commonsensically, why are you
2 going to court for this case? Well, then take your file for
3 that case. Who is threatening you? Not just, "I have seen
4 some sort of inchoate threat, some sort of threat out of the
5 ether."

6 So the evidence is clear that all Kevin saw and
7 therefore all Kevin could know was that one incident of
8 violence and German Ventura running his mouth about other
9 people and never acting upon it. How is he to abstract from
10 this that this physical violence directed towards Rebeca was
11 for the purpose of keeping her involved in sex trafficking,
12 someone who was involved in sex trafficking before she ever
13 met Ventura, was involved in prostitution before she ever met
14 Ventura?

15 Remember: You're obligated by your oath to consider
16 these individuals separately and to consider the charges
17 separately. So it's not what Mr. Ventura knew. It's what
18 Mr. Fuertes knew. That's his state of mind, ladies and
19 gentlemen. Do you believe the evidence shows Mr. Ventura's
20 guilt on one or more of the charges? That's your call.
21 Mr. Ruter, my good friend, has done a masterful job with what
22 he had to work with, but I suggest to you the situation for
23 Kevin Fuertes is very, very different.

24 So let's talk about the charges in particular. Sex
25 trafficking by force, fraud, or coercion. Number one, force,

1 he's never, in any way, shape, or form, laid his hand on
2 anybody -- Kevin Fuertes. He's never made a false promise or
3 anything like that. You heard Rebeca's testimony. He treated
4 her well. He never took advantage of her. She had every
5 opportunity on the stand when I asked her questions to condemn
6 him, and she did not. He treated her well. He never
7 restrained her. He never threatened her. He never held her
8 against her will.

9 Where is the coercion? Where is the force? Where
10 is the fraud? He never even lied to her. She had all -- she
11 had two days. She had overnight to think about, "I've got to
12 tell them something more about Kevin, because he was so bad to
13 me." Far from that, ladies and gentlemen. Nothing was done
14 by Kevin with the intention of obtaining that result of
15 keeping her involved in sex trafficking.

16 More important, you heard no testimony that, in any
17 way, shape, or form, did she ever bring her dissatisfaction
18 with her job, with her role to his attention. I'm not
19 suggesting she had an obligation to do it, but that's a
20 factor, ladies and gentlemen. If she never complained to him,
21 notwithstanding what I tell my kids, I'm not a mind reader,
22 nor are you, nor is he. How would he know if she doesn't
23 complain?

24 And, remember, even after he leaves the
25 jurisdiction, she's still with German. A year and a half

1 later, she's in Virginia where he's gone, with German. Is
2 this consistent with his understanding that she's so
3 oppressed? Not that she wasn't, but what did he know? What
4 did he see? What was he able to perceive? There is nothing,
5 ladies and gentlemen, for him to do that. So not only is he
6 not aware; there is nothing for him to be in, to use the legal
7 phrase, reckless disregard of. Reckless disregard is speeding
8 on a wet road. You know it's wet. You know it's dangerous,
9 but do it anyway.

10 What if you don't know if the road is dangerous?
11 There is a word for that. Those of you who have driven,
12 you've heard about it. You hear about it every time we get
13 bad weather here in Maryland in the winter. It's black ice.
14 What's black ice? It's ice you can't see, and you hit it, and
15 you're spinning, you're sliding. You can't do anything about
16 it, and you wouldn't have done it if you had known about it.

17 From all indications that were apparent to Kevin,
18 she was involved in this voluntarily, insofar as there is a
19 measure of voluntariness. She wanted to be with German.
20 That's Rebeca's testimony. Now, at this late date, the
21 Government would like you to view this relationship between
22 German and Rebeca with traits they now claim are obvious so
23 that my client had to be in reckless disregard. I suggest to
24 you they were not even apparent at the time, let alone being
25 obvious now.

1 You have a poor, uneducated girl from Hicksville,
2 El Salvador, who has come to America and desperately wants a
3 relationship to work to the point where she is prepared to
4 demean and degrade herself. That's the only way to understand
5 a girl who, offered an opportunity to be helped by the
6 Annapolis Police Department, says, "No, thank you," and gets
7 taken by them back to [REDACTED] -- taken back. And why
8 would she? You heard it. Because that relationship was
9 perfect.

10 So how was Kevin supposed to figure it out? He's
11 seen all these other girls run through the brothels, willing
12 to some degree or another, or maybe they're resigned to their
13 role. Nobody is fighting to get out. Girls who want to leave
14 are let -- permitted to leave, and girls are paid. What's he
15 supposed to know? What's he supposed to figure?

16 I'm not suggesting this to excuse his conduct. I'm
17 not suggesting this is something you want your kids to get
18 involved in when they grow up. What I'm asking you, ladies
19 and gentlemen, is: In terms of what the law requires, they
20 have not made their case, not even close, because they don't
21 have any evidence to support this claim.

22 And, just so we're clear, you'll see on the jury
23 form -- the verdict form your having to make a decision
24 regarding sex trafficking, which only involves Rebeca, and was
25 there reckless disregard by Kevin after 23 December 2008? Any

1 conduct before that, there can be no reckless disregard. The
2 reckless disregard standard was put into the law only
3 basically at Christmas of '08. So he would have to be in
4 reckless disregard only of conduct after Christmas and before
5 March when he left town. Anything before that, that doesn't
6 even meet the legal standard.

7 I suggest to you that we draw a lot more out of who
8 Rebeca is and how Rebeca felt by other objective evidence.
9 You heard the testimony she had been even -- she was laughing
10 right at the beginning. "Oh, shoot, shoot, ask away. I've
11 got no problem answering your questions." Does that sound
12 like someone who was scared, who was oppressed, terrified of
13 German Ventura when her child is in DSS custody?

14 Let me ask you another question. Remember this
15 photograph? This is her arrest in March of '09. Honestly,
16 does she look scared? This is what Kevin knew and what Kevin
17 saw.

18 I am not suggesting that Rebeca wanted to do this,
19 liked doing this. I am suggesting she did make to an nth
20 degree a choice to do this and a choice to continue. There is
21 plenty of evidence she wanted to get out. I have no question
22 she felt like she wanted to get out. Nobody is obligated to
23 read minds or to act upon that which they do not see. And
24 that, in its essence, ladies and gentlemen, is what the
25 Government is asking you to do. They're asking you to be

1 objective. They're asking you to be dispassionate, and then
2 they're telling you about this appalling crime.

3 I only have boys. I cannot imagine if it were my
4 daughter who was subjected to this. Actually, I can imagine.
5 That's why we have guns. That's another different story,
6 ladies and gentlemen. That's not what we have here. This is
7 a shocking and terrible crime. There is no question about it.
8 It's called prostitution. It is not sex trafficking by force,
9 fraud, and coercion. It's not even close.

10 And then of course they're going to argue to you,
11 I'm sure -- I probably shouldn't try to do Mr. Cunningham's
12 job. He'll do a better job than I will, but they'll suggest
13 that part of the force, fraud, and coercion was the adoption
14 of the murder of El Pelon, the adoption of Mr. Ventura racking
15 the gun. You'll never hear any testimony from anyone that
16 Kevin said, "We did it." That's Ventura's words, because he
17 needs to be tough.

18 You know, it's the old joke. "I'm going to kick
19 your butt."

20 "Yeah, you and what Army?"

21 So, if you've got an Army, "Me and my Army are going
22 to kick your butt." "We." Make yourself bigger. In urban
23 America, we have a word for that -- fronting. It's what my
24 other clients would call that, but not these guys. It's all
25 about posturing. It's all about making yourself seem tougher,

1 but, until November, we don't even see that happening. That's
2 November of 2010 with the assault on Hector Avila. Before
3 then, it's all talk.

4 Over and over again, you heard Ms. Franco testify.
5 She would answer a question, "Sí."

6 Mr. Ruter would say, "Would you like to reconsider
7 your answer? Let me show you your prior inconsistent
8 statement."

9 "Sí."

10 She's awfully suggestible. She's vulnerable. So,
11 when the police come to her again and again and again, "We
12 know he's involved. Why don't you help us out. Why don't you
13 tell us what you know," of course she'll say "yes" eventually.
14 And the police have no reason to disbelieve her, because it's
15 consistent with their theory, and the problem often is that
16 the police will take an hypothesis and find evidence to make
17 or break the hypothesis. That's wrong.

18 You take evidence -- objective evidence, look at its
19 meaning and create your hypothesis from that. They started
20 with, "We think Ventura is involved," and ignored everything
21 that didn't fit that. You have heard no evidence by way of
22 forensics about the murder. You have heard no evidence by way
23 of witnesses to the murder -- nothing. I don't know what
24 happened, folks. Honestly, neither do you, because we weren't
25 there. We weren't in the room. We've heard about what

1 happened, and we've heard about what people said. That is not
2 enough to come to a decision beyond a reasonable doubt. We
3 haven't even heard from the survivor of the murder, Nancy
4 Marin Ayala. Has she just vanished? We haven't even heard
5 where she is.

6 And, last but not least, again, let's go back to
7 common sense. I asked you about common sense. Would El Pelon
8 have said, "I was threatened by 'X,'" if "X" threatened him?
9 Let's accept the Government's theory. I'm German Ventura. I
10 want to take care of not a rival; another rival, Hector Avila.
11 So I have two options. On one odd hand, "I can go and get my
12 trusted prior killer. He whacked Pelon for me two years ago.
13 He's gotten away with it. Two years on the street, nobody's
14 tied this to him or me. I want somebody else killed. I'm
15 going to get him to do it." That's your one option.

16 Option number two: "I'm going to get three yahoos
17 off the street, Ferman and his running mates." Remember
18 Ferman Martinez Hernandez -- he testified for us -- him and
19 his shotgun? Which way are you going to go, folks? You're a
20 crime boss, the pimp from hell. You want to kill somebody.
21 Are you going to go with your trusted expert?

22 I'm reminded of the movie *Philadelphia*. When the
23 jury starts deliberating, there is the balding actor -- I
24 think he actually died not so long ago -- who was the foreman
25 of the jury, and he's listening to -- he's explaining the

1 way -- his understanding of the testimony of the law firm.

2 "Let's see. I've got this really big, important case. Do I
3 give it to my ace, or do I give it to some yahoo?" That's the
4 exact same situation, ladies and gentlemen. Criminals aren't
5 that dumb, are they? That's what they would have you believe,
6 because that's the only way their story makes sense.

7 Oh, but Kevin wasn't here. That's right. He was
8 all the way in Virginia, just a phone call away if you accept
9 the phone records. They've never tied those phone numbers to
10 Kevin Fuertes except that he has acknowledged their being his
11 at one point a year before, and then they bring in toll calls
12 from a year later, all these contacts, thousands of calls,
13 that they've never shown one of them actually to have Kevin on
14 the other line, and let's be honest; phones are pretty easily
15 transferable. That you've used a phone at one point doesn't
16 mean that someone else couldn't use it at another time.
17 That's handing the phones over. No question whatsoever that's
18 how it could happen. We don't know.

19 And we heard testimony that Kevin came back to
20 Baltimore from time to time -- I mean, back to Annapolis from
21 time to time. Once again, it's not so hard to go get your
22 expert killer if you want the job done right, but their theory
23 says that's not what was done, and, if that makes sense to
24 you, that's fine. It's your job to make the call. Does it
25 really make sense to you?

1 Of course there is another alternative; they didn't
2 call Kevin because Kevin's no good for violence. That's at
3 least as sensible as the Government's theory, if not a whole
4 lot more. So that's why you don't call Kevin to whack
5 Hector Avila, because Kevin is not into violence, because
6 Kevin's never killed anybody, because Kevin's never had a gun,
7 never undertaken violence towards anybody.

8 Oh, yeah, one other question, just as a matter of
9 curiosity. I hate to sort of feel like I'm piling on, but
10 that's exactly what it's like -- three or four or five guys
11 onto the pile. Reminds me of my days playing football. At
12 the end of her direct testimony, she was asked two questions I
13 was very happy with, by Ms. Yasser.

14 Question Number 1: Do you fear Ventura -- German?
15 I don't recall how she referred to him, Chino, whatever.

16 Yes.

17 Question Number 2: Do you fear Kevin, Flaco,
18 Fuertes, whatever -- whatever way Ms. Yasser posed the
19 question. Before we get to the answer, remember: This is
20 someone she believes -- she thinks was involved in a murder,
21 who allegedly had blood on his clothing, right? Mr. Bad guy,
22 right? The same guy that German could have called to kill
23 Avila. And what is Rebeca's answer without hesitation? She
24 doesn't look at me. She doesn't look at him. She doesn't
25 look at Ventura. She looks Rachel Yasser right in the eye and

1 says, "No."

2 I'm sorry. You think he killed somebody, you think
3 he's involved in a murder, and you don't fear him? Or do you
4 not fear him because he wasn't involved in anything like that,
5 because he's never been anything but decent to you? Like all
6 the rest of her testimony made amply clear. I'm not asking
7 you to like Kevin Fuertes. I'm not asking you to respect him,
8 except maybe his constitutional rights. I'm asking you: Does
9 this hold water? Does this make sense?

10 Let's talk about Count 2. That was Count 6. That's
11 sex trafficking. How about Count 2, interstate
12 transportation? When did Kevin involve himself in the
13 transport of girls from out of state over state lines? Let's
14 talk about the evidence we saw.

15 Tickets. I believe that we saw a bus or a train
16 ticket or something at some point, people being picked up at
17 the bus station, like the photograph of Bridgett that
18 Mr. Ruter referred to and I think the Government even pulled
19 out. I've got a tab back here. There is a whole bucket load
20 of them, but this is the one I like the most, because you can
21 see very clearly her pink shirt. That's the girl in the pink
22 shirt, remember? There is a whole bunch of these photographs.

23 Oh, and who is picking her up? German Ventura; not
24 Mr. Fuertes. The fact is there is no evidence -- nothing that
25 you can rely upon to suggest that Mr. Fuertes was involved in

1 any way, shape, or form in interstate transportation of women
2 for purposes of prostitution.

3 I'll give you the prostitution part. Ms. Yasser
4 went through the elements. There is no question there was
5 prostitution, but was there involvement in the transport? No,
6 not at all. He never paid the rent when they were here. You
7 heard one landlord, the only one who could identify
8 Mr. Fuertes, say, "He promised to pay, but he never did." All
9 the other landlords -- Guillen, and the Caucasian woman -- I
10 can't remember her name now. I've got it in my notes here.
11 "I don't know him. He wasn't involved. He didn't sign the
12 lease. He didn't arrange for the rent." You've never seen
13 anything. The most that Kevin did is, when all the girls were
14 here, went out and got them food and went out and got them
15 condoms, and of course he's out passing out cards. Nothing to
16 do with transport.

17 Now, there is -- let's be honest. You'll hear an
18 instruction from Judge Quarles, and it is the law that there
19 is no obligation for the Government to undertake any
20 particular investigative techniques. You can't hold it
21 against them that they didn't get fingerprints or DNA or
22 anything like that. You can't hold it against them, but, when
23 you look at the sum total of the evidence, you can look at the
24 absence of things that might have persuaded you. So, that
25 there is no evidence of Kevin having been involved in

1 transport in any way, or any of these other things, where
2 there is a lack of evidence, that is a part of your analysis.

3 And let's be honest. Margarita Santiago was brought
4 down. She looks at Kevin. What does she say? "I don't know
5 him." Maximilliano Zelaya Repalo: "I don't know him." You
6 heard more people who didn't know Kevin than did. The
7 Caucasian landlord, that was Kim Duvall. They've utterly
8 failed to establish Mr. Garcia -- I mean, Mr. Fuertes' role in
9 any way, shape, or form involved in transportation, which
10 leaves us with Count 1, conspiracy.

11 The crime of conspiracy does not require action. It
12 requires one act by one of the co-conspirators -- doesn't have
13 to be Mr. Fuertes -- in Maryland in furtherance of the
14 conspiracy. Conspiracy is a crime involved around,
15 surrounding an agreement. If I agree with you to rob a bank,
16 and one of us does one act in furtherance of the bank robbery,
17 gets some ski masks or pantyhose to disguise ourselves, gets a
18 map to sketch out our getaway, goes to the bank to check out
19 the floor plan and the hours, that's a conspiracy to commit
20 bank robbery. See you later, 20 years' federal time.

21 Is there an agreement to transport women? Maybe.
22 If you believe that, if you think there is evidence of that, I
23 can live with that. I understand why you might feel that.
24 I'm arguing to you as Mr. Fuertes' attorney there is not, but
25 that's your call. But let's be honest. There is no evidence

1 of force, fraud, or coercion. There is no evidence of a
2 conspiracy for the purpose of sex trafficking of Rebeca Dueñas
3 Franco, because there was no way of knowing that's what was
4 happening to her on the part of Kevin Fuertes. He could not
5 have known.

6 This case is about guilt by association -- two
7 kinds: Guilt by association with Annie (phon).

8 **THE REPORTER:** I'm sorry, sir?

9 **MR. MONTEMARANO:** Mr. Ventura. I'm not going to
10 describe him any further. You're welcome to all the
11 adjectives you like, and I'll join you.

12 And it's guilt by association with an infamous
13 crime -- not anything we should like, not anything maybe we
14 should even tolerate today, but we have to acknowledge it
15 happens. You've got a poor, uneducated girl. Does she have a
16 lot of other options? I'm not condemning Rebeca for the
17 choice she made, and I give her all the credit in the world
18 that she's moved beyond that, and I regret terribly what
19 happened to her at the hands of Ventura, but it was at the
20 hands of Ventura.

21 The Government's chosen to bring certain charges
22 against my client and bring them to you with almost an utter
23 lack of evidence and an entire lack of compelling evidence,
24 the kind of evidence on which you can hang your hat. They're
25 hoping that you will, like it or not, convict because of your

1 revulsion. They're hoping the twelve of you go back there,
2 take turns puking up your breakfast over this case, and hang
3 my client. It doesn't work that way, folks. They have to
4 bring in evidence, and they haven't done it. It's their
5 obligation. You heard from the very outset they have a burden
6 of proof. It's that burden of proof which protects all of us.

7 The domination, subjugation, the abuse of Rebeca is
8 awful, but it's not the basis for a verdict. What is a basis
9 for a verdict is a lack of evidence -- the fact that no gun
10 was ever seized from Kevin, no ammunition; his lack of
11 relation to interstate transport; his lack of relation to
12 force; his lack of relation to fraud; his lack of relation to
13 coercion; his lack of participation in the interstate
14 transport of anybody, in force; his lack of participation in
15 fraud; his lack of participation in coercion. That's all a
16 basis for a verdict, ladies and gentlemen -- a verdict of not
17 guilty on Count 6, a verdict of not guilty on Count 2.

18 This is my last chance to speak to you. The
19 Government, with its burden, has another shot at you. So,
20 when they say things that don't quite jive with your
21 recollection and your understanding of the evidence, remember
22 it's your recollection and your understanding which controls,
23 and I hope you will do me the courtesy of asking the questions
24 that you think I might have wanted to ask, that Mr. Ruter
25 might have wanted to ask when Mr. Cunningham says things that

1 don't quite fly for you.

2 It's good that we do this today on April 19th. It's
3 a very important day for all of us. Two hundred thirty-eight
4 years ago, some brave men faced the power of one of the most
5 important and powerful countries on the face of this earth --
6 militiamen, defending their homes and their families on the
7 Green at Lexington. This is the real patriot state, ladies
8 and gentlemen.

9 What they give to us is for you to protect. I know
10 you take your oath seriously. I know you think very hard
11 about what you're doing. I know that you are sickened as much
12 as anybody in this courtroom at what has happened over the
13 last few years in and around Annapolis. But, if you make your
14 decisions based upon reason and careful consideration and
15 thought, you have to return verdicts of not guilty regarding
16 Kevin Fuertes.

17 Thank you.

18 **THE COURT:** Mr. Cunningham?

19 **MR. CUNNINGHAM:** Thank you, Your Honor.

20 Good afternoon, ladies and gentlemen, and I can
21 assure you that I will spare you a repeat of a lot of the
22 testimony you heard. Certainly Ms. Yasser eloquently and
23 comprehensibly evaluated the evidence that the Government is
24 confident that, as you analyze it and assess it, you will do
25 exactly as the Defendants requested that you do, and that is

1 to objectively analyze it, conclude what the facts are, and
2 apply the facts to the law. We are equally confident that
3 your verdicts will, unlike what they suggest they should be,
4 be that the Defendants are guilty as charged.

5 Now, I'm sure, when you reported for jury duty two
6 weeks ago, you didn't expect to learn with such detail the
7 practice of the sex-trafficking trade, especially within the
8 Hispanic community. However, I do think -- and
9 notwithstanding the spin that perhaps Mr. Ventura might try to
10 put on it -- that everyone agrees that this is a rather
11 sordid, seamy, ugly environment, and the notion, any
12 suggestion that the women who worked in this trade did so
13 because of something other than the desperation forced upon
14 them by dire financial circumstances, by an upbringing in a
15 poor environment where they didn't get the education, where
16 they didn't get the life skills and the opportunities that are
17 afforded to many of us growing up -- not all, but many of
18 us -- growing up in the United States, left them with options
19 that were far fewer than most of us have enjoyed in life.

20 And it's within that *milieu* that the decisions that
21 they make, however difficult for us to understand and embrace,
22 have to be assessed. It's within that *milieu* that you have to
23 consider the young woman who does, in fact, become subjected
24 to the control, the exploitation, the manipulation, the
25 physical and emotional violence of German Ventura.

1 German Ventura's desire to control was shown in a number of
2 ways. As Ms. Yasser began during her opening statement, not
3 only did he engage in the sex trafficking business, but there
4 was a sector that he wanted to control, at least within the
5 Annapolis community. Perhaps he fancied himself as another
6 Raudel or Alex, carve out my area of influence, and that's
7 where I'm going to assert control.

8 Now, it's kind of surprising. You didn't hear much
9 of it in terms of counsel embracing or sponsoring the
10 Defendant -- I mean Defendant Ventura's loathsomeness and
11 loathsome regard for the Government, for law enforcement, and
12 particularly for Special Agent Kelly, and I hope you would
13 acknowledge, as the Government suggested in one comment to the
14 Court, that it's -- not only is it utterly reprehensible and
15 audacious to make such an allegation; it just flies in the
16 face of a man who has, the evidence is, spent a commendable,
17 long years of service to the United States providing the same
18 kind of defense of our rights, freedom, and liberty as
19 Mr. Montemarano suggested was done by the security officer at
20 MIT.

21 So I appreciate that neither Mr. Ruter nor
22 Mr. Montemarano embraced or suggested that there was any merit
23 whatsoever to those outrageous condemnations, but let me take
24 that as a point of departure for one overarching proposition.
25 It's a lot easier to stand here and talk to you. Of course

1 it's one-sided. We don't have the luxury of dialogue where
2 you might get to ask me, Mr. Ruter, Ms. Yasser, or
3 Mr. Montemarano questions and engage in a back and forth, but
4 I can assure you that trying to elicit a response from Ventura
5 yesterday was one of the most unimaginably challenging things
6 I've ever done as a lawyer of standing longer than
7 Mr. Montemarano, of all things.

8 It was that control that he wanted to exercise in
9 this courtroom that was so palpably obvious. I would submit
10 also that it was his prevarication, his attempt to manipulate,
11 his unwillingness to respond to a question that should suggest
12 to you that it was utterly without any credibility, and that
13 you should virtually flush anything he said -- the denial
14 about being involved in prostitution, the denial of knowing
15 anyone, not even willing to acknowledge that he knew people
16 who came -- the only person I think that he acknowledged that
17 he knew was Rebeca Dueñas. Otherwise, it was this
18 wholehearted denial.

19 What it tells you: Not only that you should
20 disregard the denials, but that someone who is willing to go
21 that far, willing to say those kinds of things, is doing it
22 for a big reason, and that's because the truth incriminates
23 him. The truth is what makes him guilty.

24 Now, let me try to address, in the time that I have,
25 just a couple of the things that were mentioned by counsel,

1 and, with all due respect to Mr. Ruter, because, again,
2 harkening back to yesterday, I think you can appreciate, as
3 the Government does, the challenge of his responsibility,
4 which he undertook with honor and dispatched as he was
5 supposed to, as our Constitution requires him to do, and as
6 the Defendant, who will probably never understand, enjoyed a
7 right and a representation that our Constitution says he
8 deserves, and he got it, but the Constitution doesn't say a
9 guilty man gets acquitted.

10 There was a suggestion the Government introduced the
11 idea of the death of El Pelon as some sort of red herring.
12 Well, first of all, ladies and gentlemen, I would submit that,
13 were you to be considering whether these men are guilty of the
14 death of Pelon, that would certainly be something you could
15 take back and consider. You wouldn't have to scrub it from
16 the get-go, but this case was not about the murder of
17 El Pelon. You should not speculate about what's going on
18 outside this courtroom, this environment, and what your
19 considerations are.

20 The death of El Pelon and Ventura's ownership of it
21 was introduced for two reasons. First of all, we have an
22 obligation to prove that these men are involved in the
23 conspiracy to engage in the prostitution business, and I
24 distinguish prostitution business from sex trafficking. The
25 conspiracy count, as Mr. Montemarano acknowledged, doesn't

1 require the force, fraud, and coercion. It's just the sex
2 traffic. Excuse me. It's just the prostitution angle of it.

3 But think about it. If you're making threats about
4 murdering or killing or injuring the competition, if you're
5 owning the death of a competitor, what's that tell you?
6 You're involved in the business. That's part of what we had
7 to prove. But, secondarily, and much more significantly for
8 the purpose of considering Rebeca Dueñas --

9 **DEFENDANT VENTURA:** Why didn't you charge me for
10 murder, then? Why did you charge me for prostitution, Mr. --

11 **THE COURT:** Mr. Ventura, please be quiet. Now,
12 you've been well behaved so far. Please continue that.

13 **DEFENDANT VENTURA:** This man's been lying a lot.

14 **THE COURT:** Quiet, sir.

15 **MR. CUNNINGHAM:** Like I suggested, ladies and
16 gentlemen, you shouldn't think about what happens outside this
17 courtroom. Rebeca Dueñas, there is a lot of talk about
18 Rebeca Dueñas, and it was in that context that the discussions
19 about, the ownership about the El Pelon murder also factors in
20 to the attitude, the emotions, the shackles -- the mental
21 shackles -- not physical shackles, but the mental and
22 emotional shackles by which she was constrained by that man,
23 compelled, coerced --

24 **DEFENDANT VENTURA:** That's why she came and
25 testified about me, because you gave her --

1 **THE COURT:** Mr. Ventura, if you continue, I will
2 have you removed from the courtroom.

3 **DEFENDANT VENTURA:** Why is he working it like you
4 want to kill me or something?

5 **THE COURT:** Mr. Ventura, if you continue, I will
6 have you removed from the courtroom.

7 **MR. CUNNINGHAM:** I don't want Mr. Ventura to be
8 killed. I just want you to do justice. If there was any
9 suggestion -- any question at all as to the utter
10 ridiculousness of certain things, it was, during testimony,
11 Mr. Ventura called Maria Theresa Baker that lying doctor.

12 Now, Dr. Baker came in for a very limited purpose,
13 and that was to provide her expert -- her expertise, training
14 and experience to you for the single purpose of saying, "The
15 observations I made were consistent with the account of
16 Rebeca Dueñas." She didn't go farther to say, "This is how it
17 happened." She didn't say who did it. It was for a limited
18 purpose, and the Government didn't try to sponsor it for
19 anything more than that, but the idea that it was bought and
20 paid for is utterly ridiculous and, again, comes back to the
21 notion that the desperation of a guilty man would -- it was
22 palpably obvious during his testimony.

23 Now, with regard to Rebeca Dueñas, indeed she did
24 acknowledge that there were differences in her account or the
25 progression of her account to law enforcement over the course

1 of more than a year -- more than a year and a half of
2 providing information, but, as Ms. Yasser pointed out, this
3 was not an evasive person on the stand. It was someone
4 certainly who was traumatized, and I invite you, as you
5 evaluate her testimony, to think about the trauma in her life.

6 There is no doubt that she probably had difficulty
7 figuring out with some specificity, when did this occur?
8 Well, most of us enjoy landmarks in our life history that help
9 us to set dates: good things, positive things; sometimes sad
10 things -- the death of a family member; the birth of a child.
11 You know, "Oh, I had a great vacation here." When you think
12 about those kind of mnemonic devices, we, most of our lives,
13 are filled with those kinds of helpful things, but think of
14 what the life must be for a woman who, from week to week,
15 travels from one strange place to another, spends five or six
16 days in a shabby, seedy little residence where she sleeps on
17 the same stained, sheetless mattress on a floor on which she's
18 supposed to lay down with ten, fifteen, twenty strangers a day
19 to debase herself by having sex for money, when at least half
20 of the money goes to men like that.

21 It's no wonder that trying to figure out exactly
22 when something happened in a life like that -- it's not like
23 for us where I can say, "Oh, yes, I took my son off to some
24 camp," or, "We took a wonderful family vacation," "Oh, I
25 remember that Christmas." She didn't have those kinds of

1 landmarks. So don't hold her responsible for some failures.

2 But, secondarily, her tongue was tied up, was
3 constrained by the man sitting over there, by the fear of that
4 man. When he got out -- or, frankly, he wasn't even
5 incarcerated, because he -- he wasn't arrested when she was
6 first arrested. He didn't get arrested until November, and
7 the fear of what he would do to her, this fear born of what he
8 threatened to do to other people, what he claimed
9 responsibility for doing to other people -- Cassandra, she saw
10 him with another prostitute. She saw what he did to another
11 prostitute when she thought or -- excuse me -- when he thought
12 that prostitute was responsible for a robbery of one of his
13 brothels.

14 And, if she was really going to come in here and
15 fabricate completely, to really put it to both of these guys,
16 don't you think it would have been a whole lot more condemning
17 than it was? What did she say? One time, there was an
18 account of him using violence because of her unwillingness to
19 engage in a sex act -- one time.

20 Now, think about it. If she was really going to
21 make this up and, since, after all, it's largely her word
22 versus his -- well, actually, it's just her word. She would
23 have said a whole lot more than that, but it only takes that
24 one time. It was that one time. It was that environment. It
25 was that climate of fear in which Defendant Fuentes

1 participated, and that's why he's absorbed.

2 Counsel are wise to concede the conspiracy.

3 Mr. Ruter's wise to concede the counts which are so obvious
4 from the evidence and testimony, but they don't want to
5 concede the force, fraud, and coercion, because there is at
6 least an opportunity here, if you challenge Rebeca Dueñas, to
7 attack. Well, you must evaluate her testimony carefully, and
8 I submit that, when you do, you'll conclude that that young
9 woman came in here, promised to tell the truth, and, through
10 the four hours-plus, did tell you the truth, and the evidence
11 that she presented does indeed support Count 6 as to both
12 Defendants.

13 I think I have a few minutes, and I just want to
14 make sure there is nothing that I -- Mr. Ventura -- excuse me.
15 Mr. Montemarano wanted to isolate Fuertes from this act by
16 using those dates. The one thing Ms. Dueñas did say was this
17 act of violence, the striking, occurred at the [REDACTED]
18 [REDACTED], we're able by virtue of Mr. Kim's testimony, however
19 difficult it was, again, to elicit information across the
20 language barrier there, to essentially isolate that time frame
21 to after Fuertes' March '09 arrest, so we know he is still
22 working with Ventura, and it's here in Maryland, and it was
23 before he went to Virginia.

24 Now, this whole business about the assault on
25 Hector Avila, talk about red herrings. I mean, Fuertes left

1 Maryland because he was under -- finally came to be under the
2 auspices of ICE. Now, as a momentary aside, whatever else you
3 might think about the Immigration policies of the United
4 States, there is no doubt that we've got some problems. We
5 have some problems in enforcement and what have you, but the
6 fact of the matter is that that's independent of this case
7 from the standpoint of the enforcement action, but Fuertes had
8 come under the umbrella of ICE enforcement, and the easiest
9 thing for him to do was to abscond, to leave the jurisdiction
10 and make sure that his presence was relatively limited; maybe
11 Sunday afternoons, come up from Virginia, return on Monday.
12 We saw that traffic.

13 But here is a guy who is still involved. Look at
14 the telephone information. You're going to have that
15 frequency chart to take back with you and evaluate it.

16 I wish I was as eloquent and adept as my colleague
17 in presenting all of the evidence to you, and I wouldn't take
18 exception with one thing that she said, except for one tiny
19 thing she said, and that was you're going to have the
20 organizational chart to take back with you. Actually, we use
21 that as a demonstrative aid. You won't have that
22 organizational chart when you go back into your deliberations,
23 but I'm going to show it to you once more.

24 This is the demonstrative chart that the Government
25 prepared based on the anticipated testimony. And I say

1 "anticipated," because I showed you this during opening
2 statement, and I told you that this is what the evidence was
3 going to show you, was going to prove to you, and that is that
4 German Ventura was the top dog, that he had a couple of
5 lieutenants. Fuertes was one of them. How many times Fuertes
6 was arrested? At least twice in brothels: Once over at --
7 once at [REDACTED], and once at [REDACTED].

8 And the other guy is El Colmillo. How many people
9 talked about him? A number of people. Ventura operated these
10 brothels. All the people here at the bottom, at various
11 times, in various police operations, were arrested.

12 Ventura wanted to carve out that niche. That's the
13 rough organization that he created, using the fear, the
14 threats, the effort to control things that we saw part of in
15 this courtroom. It's interesting Mr. Montemarano started his
16 statement with the account -- sad account in Boston and then
17 concluded with reference to Patriots Day. Actually, another
18 small correction. Patriots Day is actually celebrated --
19 was -- in fact, the first Patriots Day was April 19th. It's
20 always celebrated -- it's a State holiday in Massachusetts,
21 always celebrated on the third Monday of the month of April,
22 and, sadly, it was this Monday, April 15th, when we were
23 sitting, that the tragic events occurred in that city during
24 the marathon, and we are appropriately reminded of our
25 responsibilities as citizens to operate within the law, to

1 function as a nation of laws, and we afford people in this
2 country, citizens or not, constitutional rights to a fair
3 trial by individuals like you, who will objectively,
4 dispassionately consider the evidence and render verdicts.

5 Those are important rights, not just to the
6 individuals who are sitting as defendants, but they're
7 important rights to all of us. We're confident that, when you
8 do that, you will also respect the rights of the citizenry,
9 hold the Government to the standard we bear in every single
10 criminal case tried in this country -- proof beyond a
11 reasonable doubt. It's part of what makes it a great country.
12 We have no doubt whatsoever that, when you do that, you'll
13 help keep it a great country and a safer country, and convict
14 these men of these crimes.

15 Good afternoon.

16 **THE COURT:** Thank you, Mr. Cunningham.

17 Members of the jury, we're going to take a shorter
18 lunch break than usual. That's okay, because we're delivering
19 your lunch to you, so it should work out.

20 We will resume at 2:00 p.m. with my instructions,
21 and then the case will be given to you for your decision. As
22 I said, the instructions should take around about an hour, so
23 I would expect to give the case to you to begin your
24 deliberations sometime around 3 o'clock or so.

25 We are in recess.

1 **THE CLERK:** All rise. This Honorable Court stands
2 in recess until 2:00 p.m.

3 (Jury excused.)

4 (Luncheon recess -- 1:09 p.m.)

5 (Afternoon session -- 1:59 p.m.)

6 **THE CLERK:** All rise. This Honorable Court now
7 resumes in session.

8 **THE COURT:** Yes, Mr. Montemarano?

9 **MR. MONTEMARANO:** Yes, Your Honor. Ms. Kies
10 provided me when I came in today a revised version of the
11 verdict sheet, superseding the one provided last evening via
12 e-mail, for which I thank her. That being said, it is my
13 understanding that the present version will permit a finding
14 of involvement in Count 6, alternatively, by reckless
15 disregard for after the 23rd of December --

16 **THE COURT:** Yes.

17 **MR. MONTEMARANO:** -- but only after the 23rd of
18 December is -- but I'm -- Maryann explained it to me, and I'd
19 like to be clear on the Court's understanding of the change,
20 because I'm not sure I'm following it. My view is that they
21 can only find reckless disregard after the 23rd, and that,
22 absent that, they have to acquit on that prong, because there
23 is only one instance of conduct, so they cannot find on either
24 side of the 23rd. It's got to be the one or the other.

25 **THE COURT:** What was the date of the conduct that's

1 relied upon?

2 **MR. MONTEMARANO:** Well, the Government's argument is
3 that it's in April.

4 **THE COURT:** I understand it's argument. So your
5 question?

6 **MR. MONTEMARANO:** The Court's indulgence.

7 **THE COURT:** I'll tell you what. Why don't you look
8 for that while I'm reading my instructions.

9 **MR. MONTEMARANO:** I'm --

10 **THE COURT:** It will give you something to do other
11 than listening to the instructions. Believe me, if I had
12 something to do other than listening to the instructions, I'd
13 do it.

14 Ready for the jury, counsel?

15 **MR. MONTEMARANO:** Yes, Your Honor.

16 **THE COURT:** Would you get them?

17 (Jury enters.)

18 **THE COURT:** Please be seated.

19 Ladies and gentlemen, you are now about to enter
20 your final duty, which is to decide the fact issues in this
21 case. Before you do that, I will instruct you on the law.

22 Now, as Ms. Yasser has told you, I am going to give
23 you copies of my instructions, so don't think that you have to
24 make a stenographic record of what I'm saying to you. I will
25 give you several copies of the instructions along with several

1 copies of the verdict sheet that you'll take back with you in
2 addition to the evidence. Now, if you want to take notes
3 about anything that strikes you during the instructions, feel
4 free to do that, but don't feel you're under any obligation to
5 have to record the instructions. You're not. You'll get
6 copies of them.

7 I ask you to pay close attention to me now. I will
8 go slowly, and be as clear as possible. It is evident to me
9 that you followed the testimony with close attention, so I'm
10 going to ask you to give me that same careful attention as I
11 instruct you about the law. You have heard all the evidence
12 in the case, as well as the final arguments of the lawyers for
13 the parties. My duty at this point is to instruct you about
14 the law. It is your duty to accept these instructions of law
15 and apply them to the facts as you determine those facts.

16 On these legal matters, you must take the law as I
17 give it to you. You should not single out any instruction as
18 alone stating the law, but you should consider my instructions
19 as a whole when you retire to deliberate in the jury room.
20 You should not, any of you, be concerned about the wisdom of
21 any rule that I state. Regardless of any opinion that you may
22 have as to what the law may be -- or ought to be -- you must
23 base your verdict on the law that I will give you.

24 You, the members of the jury, on the other hand, are
25 the sole and exclusive judges of the facts. You pass upon the

1 weight of the evidence. You determine the credibility, which
2 is to say believability, of the witnesses, and you draw
3 whatever reasonable inferences you decide to draw from the
4 facts as you determined them.

5 In determining the facts, you must rely on your own
6 recollection of the evidence. What the lawyers have said in
7 their opening statements, and their closing arguments, and in
8 their objections or in their questions is not evidence. Nor
9 is anything I may have said during the trial or may say during
10 these instructions evidence.

11 The evidence before you consists of the answers
12 given by the witnesses -- the testimony they gave as you
13 recall it -- and the exhibits that were received into
14 evidence. You may also consider stipulations, or agreements,
15 if any, as evidence.

16 Because you are the sole and exclusive judges of the
17 facts, I do not mean to indicate any opinion as to the facts
18 or what your verdict should be. It is the duty of the
19 attorney for each side of the case to object when the other
20 side offers testimony or other evidence which the attorney
21 believes is not properly admissible. The lawyers also have
22 the right and duty to ask me to make rulings of law and to
23 request conferences out of your hearing. All these questions
24 of law have to be decided by me. You should not show any
25 prejudice against some attorney or his or her client because

1 that attorney objected to the admissibility of evidence or
2 asked for a conference out of your hearing or asked me to make
3 a ruling of law.

4 As I have already said, my rulings on the
5 admissibility of evidence do not indicate any opinions that I
6 hold about the weight or effect of the evidence. You are the
7 sole judges of the believability of all the witnesses and the
8 weight and effect of all the evidence.

9 You are to perform the duty of finding facts without
10 bias or prejudice against or sympathy for any party. You are
11 to perform your final duty in an attitude of complete fairness
12 and impartiality.

13 Your verdict must be based solely upon the evidence
14 developed at trial or the lack of evidence.

15 It would be improper for you to consider, in
16 reaching your decision as to whether the Government met its
17 burden of proof, any personal feelings you may have about a
18 defendant's race, religion, national origin, sex, or age. All
19 persons are entitled to the presumption of innocence, and the
20 Government has the burden of proof, as I will discuss in a
21 moment.

22 It would be equally wrong for you to allow any
23 feelings you might have about the nature of the crimes charged
24 to interfere with your decision-making process.

25 To repeat, your verdict must be based only on the

1 evidence or lack of evidence in the case.

2 The case is important to the Government, because the
3 enforcement of criminal law is a matter of prime concern to
4 the community. Equally and obviously, the case is important
5 to the Defendants, who are charged with serious crimes.

6 The fact that this prosecution is brought in the
7 name of the United States of America entitles the Government
8 to no greater consideration than that would be given to any
9 other party in the lawsuit. By the same token, the Government
10 is entitled to no less consideration. All parties, whether
11 the Government or individuals, stand as equals at the bar of
12 justice.

13 Your verdicts should be based upon the facts as
14 found by you from the evidence and the law contained in these
15 instructions.

16 Although the Defendants have been indicted, you must
17 remember that an indictment is only an accusation; it is not
18 evidence. Each defendant has pled not guilty to the
19 Indictment. As a result of these pleas of not guilty, the
20 burden is on the prosecution to prove guilt beyond a
21 reasonable doubt. This burden never shifts to a defendant for
22 the simple reason that the law never imposes upon a defendant
23 in a criminal case the burden or duty of calling any witness
24 or producing any evidence.

25 The law presumes a defendant to be innocent of all

1 the charges against him. I therefore instruct you that the
2 Defendant, each defendant, is to be presumed by you to be
3 innocent throughout your deliberations until such time, if
4 ever, that you, as a jury, are satisfied that the Government
5 has proven that defendant guilty beyond a reasonable doubt.

6 Each defendant began the trial with a clean slate.
7 The presumption of innocence alone is sufficient to acquit a
8 defendant unless you, as jurors, are unanimously convinced
9 beyond a reasonable doubt of his guilt after a careful and
10 impartial consideration of all the evidence in the case. If
11 the Government fails to sustain its burden, you must find the
12 Defendant not guilty.

13 The presumption of innocence was with each defendant
14 when the trial began, remains with each now, even as I speak
15 to you, and will continue with each defendant into your
16 deliberations unless and until you are convinced that the
17 Government has proven his guilt beyond a reasonable doubt.

18 One defendant chose not to testify in this case.
19 Under our Constitution, a defendant has no obligation to
20 testify or to present any evidence, because it is the
21 Government's burden to prove a defendant guilty beyond a
22 reasonable doubt. A defendant is never required to prove that
23 he is innocent.

24 Therefore, you must not attach any significance to
25 the fact that a given defendant did not testify. No adverse

1 inference against a defendant may be drawn by you because he
2 did not take the witness stand, and you may not consider it in
3 any way in your deliberations in the jury room.

4 In a criminal case, the Defendant cannot be required
5 to testify, but, if either one of the defendants here chooses
6 to testify, he is of course permitted to take the witness
7 stand on his own behalf. In this case, a defendant decided to
8 testify. You should examine and evaluate his testimony just
9 as you would the testimony of any witness with an interest in
10 the outcome of the case.

11 There are two types of evidence which you may
12 properly use in deciding whether a defendant is guilty or not
13 guilty.

14 One type of evidence is called direct evidence.
15 Direct evidence is where a witness testifies about what he saw
16 or heard or observed. In other words, when a witness
17 testifies about what is known to him of his own knowledge by
18 virtue of his own senses -- what he sees, feels, touches, or
19 hears -- that is called direct evidence.

20 Circumstantial evidence is evidence which tends to
21 prove a disputed fact by proof of other facts. You infer on
22 the basis of reason and experience and common sense from an
23 established fact the existence or nonexistence of some other
24 fact.

25 Circumstantial evidence is of no less value than

1 direct evidence. As a general rule, the law makes no
2 distinction between direct and circumstantial evidence, but
3 simply requires that, before convicting a defendant, the jury
4 must be satisfied of his guilt beyond a reasonable doubt from
5 all the evidence in the case.

6 During the trial, you have heard the attorneys use
7 the term "inference," and, in their arguments, they have asked
8 you to infer on the basis of your reason, experience, and
9 common sense, from one or more established facts, the
10 existence of some other fact.

11 An inference is not a suspicion or a guess. It is a
12 reasoned, logical decision to conclude that a disputed fact
13 does exist on the basis of another fact which you know does
14 exist.

15 There are times when different inferences may be
16 drawn from facts, whether proved by direct or circumstantial
17 evidence. The Government may ask you to draw one set of
18 inferences, while the Defense may ask you to draw another. It
19 is for you, and you alone, to decide what inferences you will
20 draw.

21 The process of drawing inferences from facts in
22 evidence is not a matter of guesswork or speculation. An
23 inference is a deduction or conclusion which you, the jury,
24 may -- but you are not required to draw -- from the facts
25 which have been established by either direct or circumstantial

1 evidence. In drawing inferences, you should exercise your
2 common sense.

3 So, while you are considering the evidence presented
4 to you, you are permitted to draw, from the facts which you
5 find to be proven, such reasonable inferences as would be
6 justified in light of your experience.

7 Here again, let me remind you that, whether based
8 upon direct or circumstantial evidence, or upon the logical,
9 reasonable inferences drawn from such evidence, you must be
10 satisfied of the guilt of a defendant beyond a reasonable
11 doubt before you may convict him.

12 The evidence in this case consists of the sworn
13 testimony of witnesses, the exhibits that were -- and the
14 exhibits that were received in evidence.

15 Exhibits which have been marked for identification
16 but not received into evidence may not be considered by you as
17 evidence. Only those exhibits received into evidence may be
18 considered as evidence. And we will be sending the evidence
19 back to you, so, if there is something that was mentioned at
20 trial that you don't have, that's because it was not admitted
21 into evidence, but everything that was admitted into evidence,
22 you will have access to.

23 You are to disregard any testimony when I have
24 ordered it stricken. As I indicated before, only the
25 witnesses' answers are evidence, and you are not to consider a

1 question as evidence. Also, statements made by the lawyers
2 are not evidence.

3 You should consider the evidence in light of your
4 own common sense and experience, and you may draw reasonable
5 inferences from the evidence.

6 Of course anything you may have seen or heard about
7 this case outside the courtroom is not evidence and must be
8 entirely disregarded.

9 The Government has presented exhibits in the form of
10 charts and summaries. I decided to admit these charts and
11 summaries in place of the underlying documents that they
12 represent in order to save time and unnecessary inconvenience.
13 You should consider these charts and summaries as you would
14 any other evidence.

15 Any person who testifies, including a party, is a
16 witness. You are the sole judges of whether testimony should
17 be believed. In making this decision, you may apply your own
18 common sense and everyday experiences. In determining whether
19 a witness should be believed, you should carefully judge all
20 the testimony and evidence and the circumstances under which
21 each witness has testified.

22 You should consider such things as the witness'
23 behavior on the stand and way of testifying, the witness'
24 opportunity to see or hear the things about which testimony
25 was given, the accuracy of the witness' memory, did the

1 witness have a motive not to tell the truth, does the witness
2 have an interest in the outcome of the case, was the witness'
3 testimony consistent, was the witness' testimony supported or
4 contradicted by other evidence, and whether and the extent to
5 which the witness' testimony in court was different from any
6 statement made by the witness on any previous occasion.

7 You need not believe any witness, even though the
8 testimony is not contradicted. You may believe all, part, or
9 none of the testimony of any witness.

10 In this case, you have heard the testimony of
11 various law enforcement officials. The fact that a witness
12 may be employed by a government as a law enforcement official
13 does not mean his testimony is necessarily deserving of more
14 or less consideration or greater or lesser weight than that of
15 an ordinary witness.

16 At the same time, it is quite legitimate for the
17 Defense attorneys to try to attack the believability of a law
18 enforcement witness on the grounds that his testimony may be
19 colored by a personal or professional interest in the outcome
20 of the case.

21 It is your decision, after reviewing all the
22 evidence, whether to accept the testimony of the law
23 enforcement witness and to give that testimony whatever
24 weight, if any, you find it deserves.

25 In this case, I permitted a witness, Dr. Mary

1 Theresa Baker, to express her opinion about matters that are
2 in issue. A witness may be permitted to testify to an opinion
3 on those matters about which he or she has special knowledge,
4 skill, experience, and training. Such testimony is presented
5 to you on the theory that someone who is experienced and
6 knowledgeable in a field can assist you in understanding the
7 evidence or in reaching an independent decision on the facts.

8 In weighing this opinion testimony, you may consider
9 Dr. Baker's qualifications, her opinions, the reasons for
10 testifying, as well as all of the other considerations that
11 ordinarily apply when you are deciding whether or not to
12 believe a witness' testimony. You may give her opinion
13 testimony whatever weight, if any, you find it deserves in
14 light of all the evidence in the case. You should not,
15 however, accept her expert opinion testimony merely because I
16 allowed her to testify about her opinion, nor should you
17 substitute it for your own reason, judgment, and common sense.
18 I remind you that the determination of the facts in this case
19 rests solely with you.

20 The Government has been permitted to hand out typed
21 documents, which it prepared, containing the Government's
22 interpretation of what appears on recordings which have been
23 received as evidence. Those were given to you as an aid or
24 guide to assist you in listening to them; however, they are
25 not in and of themselves evidence. So, when the recordings

1 were played, I advised you to listen carefully to the
2 recordings themselves.

3 Now, there is one difference here. That's when the
4 recordings are in another language. In that case, the actual
5 interpretation on which you received on the transcript was
6 evidence.

7 You alone make your interpretation at what appears
8 in the evidence based on what you've heard or, in the case of
9 the testimony in foreign language, what the official
10 interpretation was. Again, you are the sole judges of the
11 facts.

12 Languages other than English have been used for some
13 evidence during this trial. When a witness testified in
14 another language, the witness did so through an official court
15 reporter -- sorry -- through an official court interpreter.
16 When recorded evidence was presented in another language,
17 there was an official court translation of the recording.

18 The evidence you are to consider and on which you
19 must base your decision is only the English-language
20 interpretation or translation provided through the official
21 court interpreters and translators. Although some of you may
22 know the non-English languages used, you must disregard any
23 meaning of the non-English words that differ from the official
24 interpretation or translation.

25 You must not make any assumptions about a witness or

1 a party based solely on the use of an interpreter to assess
2 that witness or party.

3 You have heard evidence that a witness made a
4 statement on an earlier occasion which counsel argues is
5 inconsistent with the witness' trial testimony. Evidence of a
6 prior inconsistent statement is not to be considered by you as
7 affirmative evidence bearing on a defendant's guilt. Evidence
8 of the prior inconsistent statement was placed before you for
9 the more limited purpose of helping you decide whether to
10 believe the trial testimony of the witness who contradicted
11 himself or herself. If you find that the witness made an
12 earlier statement that conflicts with his trial testimony, you
13 may consider that fact in deciding how much of his trial
14 testimony, if any, to believe.

15 In making this determination, you may consider
16 whether the witness purposely made a false statement, or
17 whether it was an innocent mistake; whether the inconsistency
18 concerns an important fact, or whether it had to do with a
19 small detail; whether the witness had an explanation for the
20 inconsistency, and whether that explanation appealed to your
21 common sense.

22 It is exclusively your duty, based upon all the
23 evidence and your own good judgment, to determine whether the
24 prior statement was inconsistent, and, if so, how much, if
25 any, weight to be given to the inconsistent statement in

1 determining whether to believe all or part of the witness'
2 testimony at trial.

3 During the trial, you have heard testimony of
4 witnesses and argument by counsel that the Government did not
5 use specific investigative techniques. You may consider these
6 facts in deciding whether the Government has met its burden of
7 proof, because, as I told you, you should look to all of the
8 evidence or lack of evidence in deciding whether a defendant
9 is guilty; however, you are instructed that there is no legal
10 requirement that the Government use any specific investigative
11 technique to prove its case. There is no requirement, for
12 example, to offer recordings in evidence. Law enforcement
13 techniques are not your concern.

14 Your concern, as I have said, is to determine
15 whether or not, on the evidence or lack of evidence, a
16 defendant's guilt has been proved beyond a reasonable doubt.

17 This Indictment contains a total of seven counts.
18 Each count charges the Defendants with a different crime. You
19 must consider each count separately and return a separate
20 verdict of guilty or not guilty for each, and, as was noted by
21 Mr. Montemarano in his argument, his client is not charged in
22 all seven counts. So that will be clear during the
23 instructions and from the verdict sheet.

24 Whether you find a defendant guilty or not guilty as
25 to one offense should not affect your verdict as to any other

1 offense charged.

2 With these preliminary instructions in mind, let's
3 turn to the charges against the Defendants as contained in the
4 Indictment. I remind you that an indictment is not evidence;
5 it merely describes the charges against the Defendants. It is
6 an accusation. It may not be considered by you as any
7 evidence of the guilt of any defendant.

8 In reaching your determination whether the
9 Government has proven any defendant guilty beyond a reasonable
10 doubt, you may consider only the evidence introduced or lack
11 of evidence against that defendant.

12 While we're on the subject of the elements of the
13 offenses, I draw your attention to the fact that it does not
14 matter if the Indictment charges that a specific act occurred
15 on or about a certain date and the evidence indicates that, in
16 fact, it was on another date. The law only requires a
17 substantial similarity between the dates alleged in the
18 Indictment and the date established by testimony or exhibits.

19 We turn now to Count 1, conspiracy relating to
20 interstate prostitution.

21 Count 1 of the charging document charges the
22 Defendants with conspiracy related to interstate commercial
23 sex activity. The charging document reads, in relevant part,
24 that the Grand Jury charged that, at all times relevant to the
25 charging document, Defendant German de Jesus Ventura, also

1 known as Chino, also known as Chalo, also known as Pancho,
2 also known as Chaco, was a native and citizen of El Salvador
3 and an illegal alien residing in Capitol Heights, Maryland.

4 The document charges that Defendant Kevin Garcia
5 Fuertes, also known as Kerlin Esau Esquivel Fuentes, also
6 known as Flaco, was a native and citizen of Honduras and an
7 illegal alien residing in Annapolis, Maryland, and Richmond,
8 Virginia.

9 The document then goes on to describe the criminal
10 charge.

11 Beginning at least in or about March 2008 through in
12 or about November 2010, in Maryland and elsewhere, the
13 Defendants did knowingly and voluntarily conspire, to agree,
14 and agree with themselves and others known and unknown to the
15 Grand Jury, to knowingly transport any individual in
16 interstate commerce with the intent that such individuals
17 engage in prostitution and sexual activity for which any
18 person can be charged with a criminal offense in violation of
19 the law, and to knowingly persuade, induce, entice, and coerce
20 any individual to travel in interstate commerce to engage in
21 prostitution and sexual activity for which any person can be
22 charged with a criminal offense in violation of the law.

23 The manner and means by which the conspiracy was
24 sought to be accomplished included, among other things, the
25 following: It was part of the conspiracy that the Defendants

1 and others known and unknown to the Grand Jury established and
2 operated places of prostitution in Maryland and elsewhere.

3 It was further a part of the conspiracy that the
4 Defendants and others known and unknown to the Grand Jury
5 rented apartments and other dwellings that were used as places
6 of prostitution.

7 It was further a part of the conspiracy that the
8 Defendants and others known and unknown to the Grand Jury
9 recruited and employed prostitutes, the vast majority of whom
10 were aliens present in the United States unlawfully.

11 It was further a part of the conspiracy that the
12 Defendants and others known and unknown to the Grand Jury
13 advertised their places of prostitution using business cards.

14 It was a further part of the conspiracy that the
15 Defendants and others advertised, managed, and operated the
16 places of prostitution.

17 It was further a part of the conspiracy that the
18 Defendants and others purchased mattresses, K-Y Jelly,
19 condoms, paper towels, and rubbing alcohol, and other
20 materials for use in their places of prostitution.

21 It was further a part of the conspiracy that the
22 Defendants and others used cellular telephones and other means
23 of communication to arrange for the interstate transport of
24 women with the intent that these women engage in prostitution
25 in Maryland and elsewhere.

1 It was further a part of the conspiracy that the
2 Defendants and others arranged for vans and other vehicles to
3 transport women and transported women themselves to various
4 locations outside Maryland to Maryland, typically on Monday
5 mornings, with the intent that these women engage in
6 prostitution.

7 It was further part of the conspiracy that the
8 Defendants and others arranged for vans and other vehicles to
9 transport prostitutes and transported the prostitutes
10 themselves from Maryland to locations outside Maryland,
11 typically on Sunday evenings.

12 It was further part of the conspiracy that the
13 Defendants purchased or leased vehicles used to transport
14 prostitutes to and from Maryland.

15 It was further part of the conspiracy that the
16 Defendants and others traveled from destinations within and
17 outside of Maryland to facilitate the prostitution business.

18 It was further part of the conspiracy that the
19 Defendants and others collected and shared the cash proceeds
20 of the prostitution business.

21 It was further part of the conspiracy that the
22 Defendant German de Jesus Ventura reported criminal activity
23 by individuals allegedly engaged in prostitution activities in
24 order to divert the attention of law enforcement and
25 facilitate his own prostitution activities.

1 It was further part of the conspiracy that both
2 defendants threatened to use and used violence against those
3 also engaged in prostitution activities within Maryland.

4 It was further part of the conspiracy that the
5 Defendants threatened to use and used violence against certain
6 female prostitutes to coerce their continued participation in
7 the prostitution enterprise.

8 And it was further part of the conspiracy that
9 Defendant Ventura claimed responsibility for the murder of
10 multiple competitor pimps in order to intimidate competitor
11 pimps and his own employees and female prostitutes.

12 The Grand Jury charged that, in the course and in
13 furtherance of the conspiracy and to effect the objects of the
14 conspiracy, one or more of the co-conspirators committed or
15 caused to be committed at least one of the following acts,
16 among others, in the District of Maryland and elsewhere:

17 It is charged that, on or about September 25, 2008,
18 the Defendants and others operated a place of prostitution at
19 [REDACTED], Annapolis, Maryland.

20 Between October 2008 through April 2009, the
21 Defendants physically assaulted a female illegal alien for
22 refusing to engage in prostitution and other sex acts and held
23 her against her will.

24 On or about March 25th, 2009, the Defendants
25 operated a place of prostitution at [REDACTED],

1 [REDACTED], Annapolis, Maryland.

2 On or about September 1, 2009, Defendant Ventura and
3 others operated a place of prostitution at [REDACTED]
4 [REDACTED], Maryland, and a place -- Annapolis,
5 Maryland, and a place of prostitution at [REDACTED] in
6 Annapolis, Maryland.

7 On or about September 1, 2009, Defendant Ventura
8 used a cellular telephone to lodge death threats against a
9 family who had provided temporary housing to one of his
10 prostitutes after she was arrested.

11 On or about September 24th, 2009, Defendant Ventura
12 and others operated a place of prostitution at [REDACTED]
13 [REDACTED], Annapolis, Maryland.

14 On or about September 24th, 2009, Defendant Ventura
15 maintained tally sheets for the prostitution houses located at
16 [REDACTED] and [REDACTED],
17 both in Annapolis, Maryland, and possessed cash proceeds of
18 prostitution, cell phones, and a fake driver's license used in
19 furtherance of prostitution.

20 On or about March 1, 2010, Defendant Ventura
21 arranged for the rental of [REDACTED], Annapolis, for
22 use as a place of prostitution.

23 On or about March 13, 2010, Defendant Ventura placed
24 threatening phone calls to an individual competing for
25 prostitution business in Annapolis, Maryland, and falsely

1 reported a kidnapping and rape to the police in order to
2 falsely implicate another individual with the crimes.

3 On or about April 3rd, 2010, Defendant Ventura
4 placed a threatening phone call to a person believed to be an
5 individual competing for prostitution business in Prince
6 George's County, Maryland.

7 On or about Monday, April 5th, 2010, German de Jesus
8 Ventura and others transported two prostitutes to his place of
9 prostitution at [REDACTED], Annapolis, Maryland, and
10 purchased condoms and paper towels for the operation of the
11 prostitution house.

12 On or about May 8, 2010, Defendant Ventura delivered
13 a mattress to [REDACTED], Easton, Maryland, in order to
14 establish a place of prostitution.

15 On or about July 6 and 7, 2010, Defendant Ventura
16 and others operated places of prostitution at [REDACTED]
17 [REDACTED], Easton, Maryland, and at [REDACTED], Annapolis,
18 Maryland.

19 On or about July 12, 2010, Defendant Ventura
20 transported a Hispanic female from Langley Park, Maryland, to
21 Portsmouth, Virginia for the purpose of engaging in
22 prostitution.

23 On or about Monday, August 2, 2010, Defendant
24 Ventura and others transported Hispanic females within
25 Maryland and from Hyattsville, Maryland, to Portsmouth,

1 Virginia, for the purpose of engaging in prostitution.

2 On or about August 3rd, 2010, Defendant Ventura used
3 a cellular telephone to send three threatening multimedia
4 messages depicting a semi-automatic pistol, the magazine for
5 the pistol, and an angel of death statue to an individual
6 competing for prostitution business in Maryland.

7 On or about Monday, September 13, 2010,
8 Defendant Ventura and others transported multiple Hispanic
9 females within the state of Maryland for the purpose of
10 engaging in prostitution.

11 On or about Sunday, September 19th, 2010, to Monday,
12 September 20, an employee of Defendant Ventura transported
13 multiple Hispanic females to various places of prostitution
14 within Maryland for the purpose of engaging in prostitution.

15 On or about October 18, 2010, an employee of
16 Defendant Ventura purchased minutes on a telephone, which was
17 subsequently used to facilitate the prostitution enterprise on
18 October 28, November 2, and November 3 in 2010.

19 On or about that November 3, 2010, Defendant Ventura
20 arranged for the assault of an individual competing for
21 prostitution in Maryland, for prostitution business, with a
22 pistol-grip shotgun.

23 On or about November 15, 2010, Defendant Ventura and
24 co-conspirators transported Hispanic women within Maryland and
25 across state lines for the purpose of engaging in

1 prostitution.

2 The law makes such conduct illegal.

3 In this case, each defendant is accused of having
4 been a member of a conspiracy relating to transportation and
5 enticement for interstate prostitution. A conspiracy is a
6 kind of criminal partnership or a combination or agreement of
7 two or more persons to join together to accomplish some
8 unlawful purpose.

9 The crime of conspiracy to violate a federal law is
10 an independent offense. It is separate and distinct from the
11 actual violation of any specific federal law, which the law
12 refers to as substantive crimes.

13 Indeed, you may find a defendant guilty of the crime
14 of conspiracy to commit an offense against the United States
15 even though the substantive crime which was the object of the
16 conspiracy was not actually committed. Moreover, you may find
17 a defendant guilty of conspiracy despite the fact that he
18 himself was incapable of committing the substantive crime.

19 Congress has deemed it appropriate to make
20 conspiracy, standing alone, a separate crime even if the
21 conspiracy is not successful. This is because collective
22 criminal activity poses a greater threat to the public safety
23 and welfare than individual conduct and increases the
24 likelihood of success of a particular criminal venture.

25 In order to satisfy its burden of proof, the

1 Government must prove each of the following things beyond a
2 reasonable doubt: First, that two or more persons entered
3 into at least one of the unlawful agreements charged in the
4 charging document; second, that the Defendant knowingly and
5 willfully became a member of the conspiracy; and, third, that
6 one member of the conspiracy knowingly committed at least one
7 overt act in Maryland during the conspiracy to further some
8 objective of the conspiracy.

9 The first thing the Government must prove beyond a
10 reasonable doubt to establish the offense of conspiracy is
11 that two or more persons entered the unlawful agreement
12 charged in the charging document.

13 In order for the Government to satisfy this element,
14 you need not find that the alleged members of the conspiracy
15 met together and entered into any express or formal agreement.
16 Also, you need not find that the alleged conspirator stated,
17 in words or writing, what the scheme was -- its object or
18 purpose -- or every precise detail of the scheme, or the means
19 by which its object or purpose was to be accomplished. What
20 the Government must prove is that there was a mutual
21 understanding, either spoken or unspoken, between two or more
22 people to cooperate with each other to accomplish an unlawful
23 act.

24 You may, of course, find that the existence of an
25 agreement to disobey or disregard the law has been established

1 by direct proof. However, since conspiracy is, by its very
2 nature, characterized by secrecy, you may also infer its
3 existence from the circumstances of the case and the conduct
4 of the parties involved.

5 In a very real sense, in the context of conspiracy
6 cases, actions often speak louder than words. In this regard,
7 you may, in determining whether an agreement existed here,
8 consider the actions and statements of all of those you find
9 to be participants as proof that a common design existed on
10 the part of the persons charged to act together to accomplish
11 an unlawful act.

12 The second thing that the Government must prove
13 beyond a reasonable doubt to establish the offense of
14 conspiracy is that a defendant knowingly, willfully, and
15 voluntarily became a member of the conspiracy.

16 If you are satisfied that the conspiracy charged in
17 the charging document existed, you must next ask yourself who
18 the members of that conspiracy were. In deciding whether a
19 defendant was, in fact, a member of the conspiracy, you should
20 consider whether the Defendant knowingly and willfully joined
21 the conspiracy. Did he participate in it with knowledge of
22 its unlawful purpose and with the specific intention of
23 furthering its business or objective as an associate or
24 worker?

25 In that regard, it has been said that, in order for

1 a defendant to be deemed a participant in the conspiracy, he
2 must have had a stake in the venture or its outcome. You are
3 instructed that, while proof of a financial interest in the
4 outcome of the scheme is not essential, if you find that a
5 defendant had such an interest, it is a factor which you may
6 properly consider in determining whether or not a defendant
7 was a member of the conspiracy charged in the Indictment.

8 As I mentioned before, before a defendant can be
9 found to have been a conspirator, you must first find that he
10 knowingly joined in the unlawful agreement or plan. The key
11 question, therefore, is whether a defendant joined the
12 conspiracy with an awareness of at least some of the basic
13 aims and purposes of the unlawful agreement.

14 It is important for you to note that a defendant's
15 participation in the conspiracy must be established by
16 independent evidence of his own acts or statements, as well as
17 those of the other alleged co-conspirators, and the reasonable
18 inferences which may be drawn from them.

19 A defendant's knowledge is a matter of inference
20 from the facts proved. In that connection, I instruct you
21 that, to become a member of the conspiracy, a defendant need
22 not have known the identities of each and every other member,
23 nor need he have been apprised of all of their activities.
24 Moreover, a defendant need not have been fully informed as to
25 all of the details or the scope of the conspiracy in order to

1 justify an inference of knowledge on his part. Furthermore,
2 the Defendant need not have joined in all of the conspiracy's
3 unlawful objectives.

4 The extent of a defendant's participation has no
5 bearing on the issue of a defendant's guilt. A conspirator's
6 liability is not measured by the extent or duration of his
7 participation. Indeed, each member may perform separate and
8 distinct acts and may perform them at different times. Some
9 conspirators play major roles, while others play minor parts
10 in the scheme. An equal role is not what the law requires.
11 In fact, even a single act may be sufficient to draw the
12 Defendant within the ambit of the conspiracy.

13 Thus, a defendant may be convicted of conspiracy
14 without full knowledge of all of the conspiracy's details. If
15 he joins the conspiracy with an understanding of the unlawful
16 nature thereof, and willfully joins in the plan on at least
17 one occasion, even though he may not have participated before,
18 might not participate again, and played only a minor role.

19 I want to caution you, however, that a defendant's
20 mere presence at the scene of an alleged crime does not by
21 itself make him a member of the conspiracy. Also, mere
22 association with one or more members of the conspiracy does
23 not automatically make a defendant a member. A person may
24 know or be friendly with a criminal without being a criminal
25 himself. Mere similarity of conduct or the fact that they may

1 have assembled together and discussed common aims and
2 interests does not necessarily establish proof of the
3 existence of a conspiracy.

4 I also want to caution you that mere knowledge or
5 acquiescence without participation in the unlawful plan is not
6 sufficient. Moreover, the fact that the acts of a defendant
7 without knowledge merely happened to further the purposes or
8 objectives of the conspiracy does not make the Defendant a
9 member. More is required under the law. What is necessary is
10 that the Defendant must have participated with knowledge of at
11 least some of the purposes or objectives of the conspiracy and
12 with the intention of aiding in the accomplishment of those
13 unlawful ends.

14 In sum, a defendant, with an understanding of the
15 unlawful character of the conspiracy, must have intentionally
16 engaged, advised, or assisted in it for the purpose of
17 furthering the illegal undertaking. He thereby becomes a
18 willing and knowing participant in the unlawful agreement;
19 that is to say, a conspirator.

20 Finally, the Indictment alleges that the conspiracy
21 began in or about March 2008 and continued until in or about
22 November of 2010. You need not find that the starting date of
23 the conspiracy coincides with the starting date alleged in the
24 Indictment in order to render a guilty verdict. Rather, you
25 must find that the starting date of a conspiracy began anytime

1 in the window alleged in the Indictment.

2 The third thing which the Government must prove
3 beyond a reasonable doubt to establish the offense of
4 conspiracy is that at least one overt act was knowingly
5 committed by at least one of the conspirators in the course of
6 the conspiracy.

7 In order for the Government to satisfy this element,
8 it is only required that the Government prove one of the overt
9 acts charged in the Superseding Indictment.

10 Also, you need not find that the Defendant under
11 consideration committed the overt act. It is sufficient for
12 the Government to show that one of the co-conspirators
13 knowingly committed an overt act in furtherance of the
14 conspiracy, since such an act becomes, in the eyes of the law,
15 the act of all the members of the conspiracy.

16 The Government must prove beyond a reasonable doubt
17 that at least one overt act was knowingly and willfully done,
18 by at least one conspirator, in furtherance of some object or
19 purpose of the unlawful agreement. In this regard, you must
20 bear in mind that the overt act, standing alone, may be an
21 innocent, lawful act. Frequently, however, an apparently
22 innocent act sheds its harmless character if it is a step in
23 carrying out, promoting, aiding, or assisting the
24 conspiratorial scheme. You are therefore instructed that the
25 over act does not have to be an act which, in and of itself,

1 is criminal or constitutes an objective of the conspiracy.

2 You will recall that I have admitted into evidence
3 against the Defendants the acts and statements of other
4 persons because the Government charges that these acts and
5 statements were committed by persons who are also confederates
6 or co-conspirators of the defendants on trial.

7 The reason for allowing this evidence to be received
8 against a defendant has to do with the nature of the crime of
9 conspiracy. A conspiracy is often referred to as a
10 partnership in crime. Thus, as in other types of
11 partnerships, when people enter into a conspiracy to
12 accomplish an unlawful end, each and every member becomes an
13 agent for the other conspirators in carrying out the
14 conspiracy.

15 Accordingly, the reasonably foreseeable acts,
16 declarations, statements, and omissions of any member of the
17 conspiracy, which are done in furtherance of the common
18 purpose of the conspiracy, are deemed, under the law, to be
19 acts of all the members, and all of the members are
20 responsible for such acts, declarations, statements, and
21 omissions.

22 If you find beyond a reasonable doubt that a
23 defendant was a member of the conspiracy charged in the
24 Indictment, then any acts done or statements made in
25 furtherance of the conspiracy by persons also found by you to

1 have been members of that conspiracy may be considered against
2 the Defendant. This is so even if the acts were done and the
3 statements were made in the Defendant's absence and without
4 his knowledge.

5 However, before you may consider the statements or
6 acts of a co-conspirator in deciding the issue of a
7 defendant's guilt, you must first determine that the acts and
8 statements were made during the existence and in furtherance
9 of the unlawful scheme. If the acts were done or the
10 statements made by someone whom you do not find to have been a
11 member of the conspiracy, or if they were not done or said in
12 furtherance of the conspiracy, they may be considered by you
13 as evidence only against the member who did or said them.

14 Counts 2, 4, and 5 of the Indictment charge
15 interstate transportation for prostitution.

16 In Count 2, both defendants are charged with that
17 crime. Interstate transportation of an individual with the
18 intent that that individual engage in prostitution or sexual
19 activity for which someone could be charged with a criminal
20 offense in violation of the law. This happened from in or
21 about September 2008 through in or about March 2009 as
22 charged.

23 Count 2 reads that the Grand Jury charges that the
24 allegations stated in Paragraphs 1 and 2 and 4 through 20 of
25 Count 1 -- in other words, that long description of the

1 conspiracy that I read before -- are incorporated by reference
2 into this count.

3 From in or about September 2008 through in or about
4 March 2009, in Maryland and elsewhere, the Defendants did
5 knowingly and intentionally transport individuals in
6 interstate and foreign commerce, with the intent that those
7 individuals engage in prostitution and sexual activity for
8 which any person could be charged with a criminal offense.

9 In Counts 4 and 5, Defendant Ventura alone is
10 charged with the same crime, on or about August 2, 2010 and on
11 or about November 15, 2010 respectively. Count 4 reads that
12 the Grand Jury charged Defendant Ventura first with all of the
13 allegations set forth in the first count that are incorporated
14 by reference here.

15 The Grand Jury charged that, on August 2nd, 2010,
16 Defendant Ventura did knowingly and intentionally transport
17 individuals in interstate and foreign commerce with the intent
18 that those individuals engage in prostitution and sexual
19 activity for which any person can be charged with a criminal
20 offense.

21 Count 5 of the Indictment charges that the
22 allegations set forth in that long list of things I read
23 before are incorporated by reference in the count, and, on or
24 about November 15th, 2010, in Maryland and elsewhere,
25 Defendant Ventura did knowingly and intentionally transport

1 individuals in interstate and foreign commerce with the intent
2 that those individuals engage in prostitution and sexual
3 activity for which any person can be charged with a criminal
4 offense.

5 In order to prove a defendant guilty of this crime,
6 the Government must prove each of the following things beyond
7 a reasonable doubt: First, that the Defendant knowingly
8 transported individuals in interstate commerce as alleged in
9 the Indictment; second, that the Defendant transported said
10 individuals with the intent that those individuals would
11 engage in prostitution or illegal sexual activity.

12 I instruct you that prostitution means engaging in
13 sexual activity on account of which anything of value is given
14 to or received by any person. An unlawful sexual activity
15 includes anything that would be a crime under Maryland law
16 that forbids engaging in prostitution.

17 Counts 2, 4, and 5, interstate transportation for
18 prostitution, the first element, as I said, is transport in
19 interstate commerce.

20 The first thing that the Government must prove
21 beyond a reasonable doubt in Counts 2, 4, and 5 is that a
22 defendant knowingly transported an individual in interstate
23 commerce.

24 "Interstate commerce" simply means movement between
25 one state and another.

1 The Government does not have to prove that the
2 Defendant personally transported an individual across a state
3 line. It is sufficient to satisfy this element if the
4 Defendant was actively engaged in the making of travel
5 arrangements, such as by purchasing tickets for the
6 individuals to travel as planned.

7 The Defendant must have knowingly transported, as I
8 have defined that term, the individual in interstate commerce.
9 This means that the Government must prove that the Defendant
10 knew both that he was transporting the individual and that he
11 was transporting the individual in interstate commerce. To
12 act knowingly means to act voluntarily and intentionally, not
13 because of accident, mistake, or other innocent reason.

14 To find that the Government has proven this element
15 beyond a reasonable doubt, all members of the jury must agree
16 when the particular individual was transported in interstate
17 commerce. You need not determine the identity of the
18 particular individual transported.

19 You have been instructed that, in order to sustain
20 its burden of proof, the Government must prove that the
21 Defendant acted knowingly. A person acts knowingly if he acts
22 intentionally and voluntarily, and not because of ignorance,
23 mistake, accident, or carelessness. Whether the Defendant
24 acted knowingly may be proven by the Defendant's conduct and
25 by all of the facts and circumstances surrounding the case.

1 Counts 2, 4, and 5 require the Government to prove
2 an intent to engage in prostitution.

3 The direct proof of a person's intent is almost
4 never available. It would be a rare case where it could be
5 shown that a person wrote or stated that, as of a given time,
6 he committed an act with a particular intent. Such direct
7 proof is not required. The ultimate fact of intent, though
8 subjective, may be established by circumstantial evidence
9 based upon the Defendant's outward manifestations -- his
10 words, his conduct, his acts -- and all the surrounding
11 circumstances disclosed by the evidence, and the rational or
12 logical inferences that may be drawn from them.

13 In order to establish this element, it is not
14 necessary for the Government to prove that engaging in
15 prostitution was the sole purpose for crossing the state line.
16 A person may have several different purposes or motives for
17 such travel, and each may prompt in varying degrees the act of
18 making the journey. The Government must prove beyond a
19 reasonable doubt, however, that a significant or motivating
20 purpose of the travel across a state line was that said
21 individual would engage in prostitution; in other words, that
22 illegal activity must not have been merely incidental to the
23 trip.

24 Knowledge, willfulness, and intent involve the state
25 of a person's mind. This is a fact you are called upon to

1 decide.

2 Medical science has not yet devised an instrument
3 which can record what was in one's mind in the distant past.
4 Rarely is direct proof available to establish the state of
5 one's mind. This may be inferred by what one says or does --
6 his words, actions, and conduct -- as of the time of the
7 occurrence of certain events.

8 The intent with which an act is done is often more
9 clearly and conclusively shown by the act itself or by a
10 series of acts than by words or explanations of the act
11 uttered long after its occurrence. Accordingly, intent,
12 willfulness and knowledge are usually established by
13 surrounding facts and circumstances as of the time the acts in
14 question occurred or the events took place, and the reasonable
15 inferences to be drawn from them.

16 Count 3 charges enticing interstate travel for
17 prostitution.

18 The Grand Jury charged that, first by incorporating
19 all of the long list of things I read in the first count,
20 that, in or about September 2009, in Maryland and elsewhere,
21 Defendant Ventura did knowingly persuade, induce, entice, and
22 coerce any individual to travel in interstate and foreign
23 commerce to engage in prostitution and sexual activity for
24 which any person can be charged with a criminal offense.

25 The Indictment charges a violation of the United

1 States law that forbids such activity.

2 In order to find the Defendant guilty of persuading
3 or enticing or inducing or coercing an individual to travel
4 for the purpose of prostitution or engaging in illegal sexual
5 activity, the Government must prove each of the following
6 things beyond a reasonable doubt:

7 First, that the Defendant knowingly persuaded or
8 induced or enticed or coerced an individual to travel in
9 interstate commerce as alleged in the Indictment. To "induce"
10 can be defined as to lead or move by influence or persuasion,
11 to prevail upon, or, alternatively, to stimulate the
12 occurrence of, to cause.

13 The second thing that must be proven is that that
14 individual traveled in interstate commerce.

15 Third, that the Defendant acted with the intent that
16 that individual would engage in prostitution or illegal sexual
17 activity.

18 Count 3, again, involving enticing interstate travel
19 for prostitution, requires persuasion to travel in interstate
20 commerce.

21 The first thing that the Government must prove
22 beyond a reasonable doubt is that the Defendant knowingly
23 persuaded or induced or enticed or coerced an individual to
24 travel in interstate commerce as alleged in the Indictment.
25 As I earlier instructed you, an act is done "knowingly" if

1 it's done voluntarily and intentionally, and, as I also
2 instructed, "interstate commerce" is movement between one
3 state and another.

4 The second thing that must be proven to prove
5 enticement of interstate transportation for prostitution is
6 travel in interstate commerce, as alleged in the Indictment.

7 The third thing which the Government must prove
8 beyond a reasonable doubt is that the Defendant acted with the
9 intent that the individual would engage in prostitution or
10 illegal sexual activity.

11 As I earlier instructed you, "prostitution" is
12 sexual activity on account of which anything of value was
13 given to or received by any person. An "unlawful sexual
14 activity" means, for example, engaging in prostitution in
15 violation of the law of Maryland.

16 Count 6 of the charging document charges the
17 Defendants with sex trafficking.

18 The Grand Jury, first of all, alleged and
19 incorporated all of the long list of things I read in the
20 first count, then charged that, from in or about September
21 2008 through in or about November 2010, in Maryland and
22 elsewhere, the Defendants did knowingly, in and affecting
23 interstate and foreign commerce, recruit, entice, harbor,
24 transport, provide, and obtain by any means a person --
25 namely, "R.D.F." -- and, as you'll recall, this is Rebeca

1 Dueñas Franco -- and did benefit financially and by receiving
2 anything of value from participation in the venture engaged in
3 such acts, knowing that force, fraud, and coercion could be
4 used to cause "R.D.F." to engage in a commercial sex act.

5 The Indictment charges violations of federal law.

6 In order to prove a defendant guilty of sex
7 trafficking, the Government must prove each of the following
8 things beyond a reasonable doubt: First, that the Defendant
9 knowingly recruited or enticed or harbored or transported or
10 provided or obtained Esmirna Rebeca Dueñas Franco by any
11 means, or benefited, financially or by receiving anything of
12 value, from participation in such venture; second, that the
13 Defendant knew that force, fraud, or coercion would be used
14 with respect to this person; third, that the Defendant knew
15 that this person would be engaged in a commercial sexual
16 act -- and I will define that term for you; and, fourth, that
17 the Defendant's conduct was in or affecting interstate
18 commerce.

19 The first thing that must be proven is recruiting,
20 enticing, transporting, or harboring.

21 The first thing the Government must prove beyond a
22 reasonable doubt is that the Defendant knowingly transported
23 or recruited or enticed or harbored or provided or obtained
24 Esmirna Rebeca Dueñas Franco, by any means, or benefited,
25 financially or by receiving anything of value, from

1 participation in such a venture.

2 To "harbor" someone simply means to provide shelter
3 to that person. As I said before, an act is done knowingly
4 when it's done purposely and intentionally as opposed to
5 mistakenly or inadvertently.

6 The second element of this offense which the
7 Government must prove beyond a reasonable doubt is that the
8 Defendant knew that force, fraud, or coercion would be used
9 with respect to Esmirna Rebeca Dueñas Franco.

10 Fraud, as I just used that term, means that the
11 Defendant knowingly made a misstatement or omission of a
12 material fact to entice Ms. Franco. A material fact is one
13 which would reasonably be expected to be of concern to a
14 reasonable person in relying upon the representation or
15 statement in making a decision.

16 Coercion, as I have used that term, means a threat
17 of serious or physical restraint against a person. A threat
18 is a serious statement expressing an intention to inflict
19 harm, at once or in the future, as distinguished from idle or
20 careless talk, exaggeration, or something said in a joking
21 manner. A statement is a threat if it was made under such
22 circumstances that a reasonable person hearing the statement
23 would understand it as a serious expression of intent to cause
24 harm, or a reasonable person making the statement would
25 foresee that the recipient would understand it as a serious

1 expression of intent to cause harm.

2 The term "serious harm" includes both physical and
3 non-physical types of harm, including psychological,
4 financial, or reputational harm. That is sufficient under all
5 the surrounding circumstances to compel a reasonable person of
6 the same background and in the same circumstances to perform
7 or to continue performing commercial sexual activity in order
8 to avoid incurring that harm. In determining whether the
9 Defendant made a threat of serious harm that could reasonably
10 be believed by Ms. Franco, you should consider her particular
11 station in life, physical and mental condition, age,
12 education, training, experience, and intelligence. A threat
13 of serious harm must be of a sufficient kind -- must of
14 sufficient in kind or degree to completely overcome the will
15 of an ordinary person having the same general station in life
16 as that of Ms. Franco, causing a reasonable belief that there
17 was no reasonable choice except to engage in the commercial
18 sexual act as directed by the Defendant.

19 Coercion, as I have used the term, also means that
20 the Defendant engaged in a course of behavior intended to
21 cause Ms. Franco to believe that, if she did not engage in a
22 commercial sex act, as directed by the Defendant, that she or,
23 for example, her family would suffer serious harm.

24 To satisfy this element, the Government must prove
25 that force, fraud, or coercion, as I have just defined those

1 terms, was used, and also that the Defendant knew it would be
2 used against the victim.

3 As I first instructed you, the second element of sex
4 trafficking by force, fraud, and coercion is that the
5 Defendant knew that force, fraud, or coercion would be used
6 with respect to Ms. Franco. If you find that a defendant
7 transported or recruited or enticed or harbored or provided or
8 obtained Ms. Franco by any means, or benefited, financially or
9 by receiving anything of value, from participation in such a
10 venture after December 23rd, 2008, you need not find that that
11 defendant had actual knowledge that force, fraud, or coercion
12 would be used against her. Instead, this element is satisfied
13 if you find that the Government has proved beyond a reasonable
14 doubt that the Defendant acted with reckless disregard of the
15 facts concerning the use of coercion. The phrase "reckless
16 disregard of the facts" means deliberate indifference to facts
17 which, if considered and weighed in a reasonable manner,
18 indicate the highest probability that Ms. Franco was coerced
19 to engage in a commercial sex act.

20 The third thing which the Government must prove
21 beyond a reasonable doubt is that the Defendant knew that
22 Ms. Franco would be engaged in a commercial sex act.

23 A "commercial sex act" is any sex act on account of
24 which anything of value is given to or received by any person.

25 The fourth thing which the Government must prove

1 beyond a reasonable doubt is that the Defendant's conduct was
2 in or affecting interstate commerce.

3 Interstate commerce simply means the movement of
4 goods, services, money, and individuals between any two or
5 more states or between one state and the District of Columbia.

6 And that definition holds throughout the
7 instructions about the District of Columbia is considered a
8 state for purposes of interstate commerce.

9 Transporting a person across state lines for a
10 commercial purpose is conduct "in interstate commerce." In
11 addition, acts and transactions which are economic in nature
12 and affect the flow of money in the stream of commerce to any
13 degree, however minimal, also "affect" interstate commerce.
14 For example, the use of hotels that service interstate
15 travelers or the use of condoms that travel in interstate
16 commerce is conduct that "affects" interstate commerce.

17 To satisfy this element, the Government must prove
18 that the Defendant's conduct affected interstate commerce in
19 any way, no matter how minimal. You do not have to find that
20 Defendant's conduct actually affected interstate commerce if
21 you find that the Defendant's conduct would have affected
22 interstate commerce if the Defendant had successfully and
23 fully completed his actions. Finally, the Government is not
24 required to prove that the Defendant knew he was affecting
25 interstate commerce.

1 Count 7 of the Indictment charges possession of a
2 firearm in furtherance of a crime of violence. The count
3 charges that on or -- in or about November 2010, Defendant
4 Ventura did knowingly possess a firearm in furtherance of or
5 used and carried a firearm during and in relation to a crime
6 of violence; that is, sex trafficking.

7 The Grand Jury, of course, first realleged all of
8 the statements that I made in Count 1 and incorporate it here,
9 and further charged that, beginning at least in or about
10 September 2008 through in or about November 2010, in the
11 District of Maryland, Defendant Ventura did knowingly possess
12 a firearm in furtherance of and used and carried a firearm
13 during and in relation to a crime of violence for which he may
14 be prosecuted in a court of the United States, and, in so
15 doing, did brandish a firearm in violation of federal law.

16 To satisfy its burden as to Count 7, the Government
17 must prove each of the following things beyond a reasonable
18 doubt: First, that the Defendant committed the crime of
19 violence charged in Count 6 of the Indictment, which is a
20 crime for which he might be prosecuted in a court of the
21 United States; and, second, that the Defendant knowingly
22 possessed a firearm in furtherance of or used and carried the
23 firearm in relation to the crime charged in Count 6.

24 The first thing the Government must prove beyond a
25 reasonable doubt is that the Defendant committed a crime of

1 violence for which he may be prosecuted in a court of the
2 United States.

3 A crime of violence under this section includes the
4 offense of sex trafficking. I've already instructed you that
5 the offense of sex trafficking is a crime of violence.

6 If, during your deliberations, you determine that
7 the Government has failed to prove beyond a reasonable doubt
8 that the Defendant is guilty as to the crime of violence --
9 that is, sex trafficking -- as charged in Count 6, then you
10 will proceed no further with Count 7.

11 In reaching your verdict, you are to consider
12 evidence of the crime of violence only for the purpose of
13 determining whether this first element has been satisfied.

14 The second thing the Government must prove beyond a
15 reasonable doubt is that the Defendant knowingly possessed a
16 firearm in furtherance of or knowingly used or carried a
17 firearm during and in relation to the commission of a crime of
18 violence.

19 To prove that the Defendant possessed the firearm in
20 furtherance of the crime of violence, the Government must
21 prove that the Defendant had possession of the firearm and
22 that such possession was in furtherance of the crime.

23 Possession also means that the Defendant either had physical
24 possession of the firearm or on his person, or that he had
25 dominion and control over the place where the firearm was

1 located and the intention to exercise control over the
2 firearm. To possess a firearm in furtherance of the crime
3 means that the firearm helped forward, advance, or promote the
4 commission of the crime. The mere possession of the firearm
5 at the scene of the crime is not sufficient under this
6 definition. The firearm must have played some part in
7 furthering the crime in order for this element to be
8 satisfied.

9 You must also find that the Defendant possessed the
10 firearm knowingly. This means that he possessed it purposely
11 and voluntarily, and not by accident or mistake. It also
12 means that he knew the weapon was a firearm as we commonly use
13 the word. However, the Government is not required to prove
14 that the Defendant knew that he was breaking the law.

15 A "firearm" is any weapon which will, or is designed
16 to, or may be readily converted to expel a projectile by the
17 action of an explosive.

18 In order to prove that the Defendant used the
19 firearm, the Government must prove beyond a reasonable doubt
20 an active employment of the firearm by the Defendant during
21 and in relation to the commission of the crime of violence.
22 This does not mean that the Defendant must actually fire or
23 attempt to fire the weapon, although those would obviously
24 constitute use of the weapon. Brandishing, displaying, or
25 even referring to the weapon so that others present knew that

1 the Defendant had the firearm available, if needed, all
2 constitute the use of the firearm. However, the mere
3 possession of a firearm at or near the site of the crime
4 without active employment, as I have just described it, is not
5 sufficient to constitute the use of the firearm.

6 In order to prove that the Defendant carried the
7 firearm, the Government must prove beyond a reasonable doubt
8 that the Defendant had the weapon within his control in such a
9 way that could further the commission of the crime of
10 violence, or was an integral part of the commission of the
11 crime. The Defendant did not necessarily have to hold the
12 firearm physically; that is, have actual possession of it on
13 his person. If you find that the Defendant had dominion and
14 control over the place where the firearm was located and had
15 the power and intention to exercise control over the firearm
16 in such a way that it furthered the commission of the crime of
17 violence, you may find that the Government has proven that the
18 Defendant carried the weapon. If applicable: It is not
19 sufficient to prove carrying if all the Government has proven
20 is that the firearm was transported in a vehicle in which the
21 Defendant was riding. There must be proof that the Defendant
22 knew of the weapon's presence and had the power and intention
23 to exercise control of the weapon so that it was available for
24 his use in the commission of the crime if the need arose.

25 To satisfy this element, you must also find that the

1 Defendant carried or used the firearm knowingly. This means
2 that he carried the firearm purposely and voluntarily, and not
3 by accident or mistake. It also means that he knew the weapon
4 was a firearm as we commonly use the word. However, the
5 Government is not required that he knew that he was breaking
6 the law.

7 In this case, you may find the Defendant guilty of
8 possessing a firearm if you find beyond a reasonable doubt
9 either, one, that he was a member of a conspiracy, and the
10 crime of possessing a firearm was committed by others in
11 furtherance of that conspiracy, or, two, that he aided or
12 abetted the possession of a firearm.

13 The question of possible punishment of a defendant
14 is of no concern to you, and should not, in any sense, enter
15 into or influence your deliberations. The duty of imposing
16 sentence rests entirely upon me. Your function is to weigh
17 the evidence in the case and determine whether or not each
18 defendant is guilty beyond a reasonable doubt, solely upon the
19 basis of that evidence. Under your oath as jurors, you cannot
20 allow a consideration of the punishment which may be imposed
21 upon a defendant, if he is convicted, to influence your
22 verdict in any way, or in any sense enter into your
23 deliberations.

24 You will be pleased to know I've now reached the
25 last part of these instructions, relating to the mechanics and

1 procedures for your deliberations.

2 When you retire to the jury room, you will select
3 one of yourselves to act as your foreperson. The foreperson
4 will preside over your deliberations and be your spokesperson
5 here in court.

6 If it becomes necessary during your deliberations to
7 communicate with me, you may send a note by the Bailiff,
8 signed by your foreperson or by one or more members of the
9 jury. No member of the jury should ever attempt to
10 communicate with me by any means other than a signed writing,
11 and I will never communicate with the jury on any subject
12 touching the merits of the case other than in writing or here
13 orally in open court.

14 You will note from the oath about to be taken by the
15 Bailiff that he and all other persons are forbidden to
16 communicate in any way with any member of the jury on any
17 subject touching the merits of the case. Now, the Bailiff can
18 ask you if the room temperature is okay, if you have enough
19 note pads or pens, that sort of thing, but he cannot ask you
20 about or get involved in your deliberations at all.

21 Bear in mind also that you are never to reveal to
22 any person -- that includes me -- how you stand numerically or
23 otherwise until you've reached a unanimous verdict. I never
24 need to know that there are so many of you for one position or
25 so many of you for another. I cannot use that information.

1 Please do not communicate that information to me.

2 These verdict forms have been prepared for your
3 convenience, and, as you will see, there is a form for each of
4 the Defendants, and, as was noted, not all of the Defendants
5 are in each count, but the verdict forms will show you which
6 count each defendant is in, and you can use that as sort of a
7 guide not only to your deliberations, but to the instructions
8 themselves and which instructions pertain to each individual
9 defendant.

10 You will take these forms to the jury room, and,
11 when you have reached a unanimous verdict, you will have your
12 foreperson fill the verdict forms in, and then date and sign
13 them. When you have reached a unanimous verdict, please tell
14 the Bailiff.

15 You will then be brought back into the courtroom,
16 and the Clerk will take roll and then your verdict. She'll
17 ask you if you have agreed upon your verdict, and, if you
18 have, you'll say, "We have."

19 She will ask, "Who will speak for you?"

20 And you will reply, "Our foreperson."

21 The Clerk will then ask the foreperson for the
22 verdict.

23 The verdict must represent the considered judgment
24 of each of you. To return a verdict, it is necessary that
25 each juror agree to it. Your verdict must be unanimous.

1 It is your duty, as jurors, to consult with one
2 another and to deliberate with a view to reaching an
3 agreement, if you can do so without offense to your individual
4 judgment. Each of you must decide the case for yourself, but
5 do so only after an impartial consideration of the evidence in
6 the case with your fellow jurors. During your deliberations,
7 do not hesitate to reexamine your own views, and change your
8 opinion, if you are convinced it is wrong. But do not
9 surrender your honest conviction about the weight or effect of
10 the evidence solely because of the opinion of your fellow
11 jurors or for the mere purpose of returning a verdict.

12 Remember at all times: You are not partisans, you
13 are judges -- judges of the facts of this case.

14 Counsel, please approach.

15 (Whereupon, the following discussion occurred at the
16 bench.)

17 **THE COURT:** There is a [REDACTED]. Okay.

18 **MR. MONTEMARANO:** Subject to the prior objections
19 and whining put on the record by the Defense, I don't think
20 there is any objections from the -- as to the instructions as
21 read to the jury.

22 **THE COURT:** Thank you. And I consider all of your
23 previous objections and statements fully restated here.

24 **MR. RUTER:** Please. Your Honor, thank you.

25 On Page 89 -- and this could be just my lack of

1 intellect -- I'm trying to figure out whether or not the last
2 paragraph of Page 89, which is Count 7, is an active statement
3 of the law given the fact that this particular possession must
4 revert back to Count 6. Count 6, of course, has more of an
5 element than just a conspiracy that deals with -- it deals
6 with sex trafficking. It has nothing to do with conspiracy.
7 It has to do with sex trafficking, force, coercion, and so on.
8 So I'm just not clear --

9 **THE COURT:** What's your proposal?

10 **MR. RUTER:** That there be language, Your Honor --

11 **THE COURT:** What's your language?

12 **MR. RUTER:** I don't have my -- specifically at this
13 time, Your Honor.

14 **THE COURT:** Propose language that you want me to
15 consider.

16 **MR. CUNNINGHAM:** Well, Your Honor, coincidentally,
17 we noted that we don't think that the first clause of that
18 would be applicable in this case.

19 **THE COURT:** Okay. So it would be the -- the
20 co-conspirator conduct?

21 **MR. MONTEMARANO:** Yes.

22 **MR. CUNNINGHAM:** Correct, Your Honor.

23 **THE COURT:** Okay. What about the aiding and
24 abetting theory? You're actually charging him with actual,
25 aren't you?

1 **MR. CUNNINGHAM:** We're charging with actual, so --

2 **THE COURT:** So we can just strike the last
3 paragraph?

4 **MR. CUNNINGHAM:** Yes, Your Honor.

5 **THE COURT:** Okay. Belinda, may I have the mic back,
6 please.

7 (Whereupon, the bench conference was concluded.)

8 **THE COURT:** Members of the jury, on Page 89 of the
9 instructions, there is a last paragraph that talked about
10 other theories for finding someone guilty of possessing a
11 firearm in furtherance of a crime of violence.

12 By agreement, that last paragraph should not be
13 considered by you. That's not the theory. The theory in this
14 case is that the Defendant Ventura himself actually possessed
15 the gun and used it in furtherance, or possessed it in
16 furtherance of the crime. So, therefore, the other things
17 about a co-conspirator possessing or about aiding and abetting
18 possessing are not at issue here. The Government's theory is
19 that Mr. Ventura himself personally possessed the weapon in
20 furtherance of a crime.

21 So that will not be in the instructions that you
22 receive, but, for those of you who have very good memories and
23 remember what I read, I want you to know that that's not a
24 part of your deliberations.

25 Thank you.

1 Bailiff.

2 **THE CLERK:** Raise your right hand.

3 (Oath administered.)

4 **THE CLERK:** Will you state your name for the record,
5 please.

6 **CSO:** Dennis Hooper.

7 **THE CLERK:** Thank you, sir. All rise --

8 **THE COURT:** Wait a minute. Alternates Number 1, 2,
9 and 3, I want to thank you very much for your service. You've
10 been my insurance policy the past two weeks, and, as you see,
11 we did actually need one of the alternates to fill in to the
12 jury. However, the jury is intact, and we'll not be needing
13 your services further.

14 Yes, sir?

15 **JUROR 12:** Can I come talk to you?

16 **THE COURT:** Okay. Come up.

17 Counsel?

18 (Whereupon, the following discussion occurred at the
19 bench.)

20 **THE COURT:** Yes, Number 12?

21 **JUROR:** I really can't handle this, because I don't
22 think my education is -- because I never did graduate, and I
23 only went to the ninth grade, so I don't think I can handle
24 this, and I don't think I'd be fair.

25 **THE COURT:** Well, we all chose you because we had

1 faith in your ability to be fair, but are you asking to be --
2 are you asking to be excused from further service?

3 **JUROR:** I surely am, because, when you first called
4 us up there for the first time when we started, I didn't know
5 what this was all about when you called everybody, when
6 everybody was up here.

7 **THE COURT:** Okay. Let me ask you to step back, if
8 you would, just to the rail of the box. Don't go back into
9 the box. If you would step back.

10 **JUROR:** Okay.

11 **THE COURT:** He's afraid of making a mistake.

12 **MR. MONTEMARANO:** I never want anybody on a jury who
13 doesn't want to be there, for obvious reasons.

14 **MR. RUTER:** Your Honor, if I could step back and
15 speak to Mr. Ventura?

16 **THE COURT:** Yes. Please consult.

17 **MR. RUTER:** Thank you.

18 (Whereupon, the bench conference was concluded.)

19 (Counsel conferring with the Defendants.)

20 **MR. RUTER:** May we approach, Your Honor?

21 **THE COURT:** Please.

22 (Whereupon, the following conference was held at the
23 bench.)

24 **MR. RUTER:** Your Honor, Mr. Ventura indicated that,
25 since he was not represented properly, it makes no difference,

1 and, therefore, I will assert my judgment and agree to his
2 being stricken.

3 **MR. MONTEMARANO:** Likewise for Mr. --

4 **MR. CUNNINGHAM:** Agreed, Your Honor.

5 **THE COURT:** Thank you.

6 **MR. CUNNINGHAM:** Do you want us to remain?

7 **THE COURT:** Please.

8 Number 12, we have talked, and we have decided that
9 we are going to grant your request. We all think that you're
10 not giving yourself enough credit.

11 **JUROR:** Absolutely.

12 **THE COURT:** We all felt complete comfort with you
13 involved in the decision-making process here. We all feel
14 comfortable in your judgment and in your intelligence, but
15 this is your decision, and we're not going to try to convince
16 you to stay. I do want to thank you for your service. It's
17 been two weeks out of your life, and I appreciate that.

18 **JUROR:** Yeah, but, if I had the education to
19 complete, you know --

20 **THE COURT:** You don't have to apologize, sir. We
21 understand, and we believe you are acting in good faith.

22 **JUROR:** Yep. Thank you.

23 **THE COURT:** Anyway, if you will go back and sit
24 beside the Bailiff, that would be great, for a moment, because
25 we have a certificate for you.

1 **MR. RUTER:** Okay.

2 (Whereupon, the bench conference was concluded.)

3 **THE COURT:** Alternate Juror Number 1, please take
4 Seat Number 12. You are now Juror Number 12.

5 Alternates, former Number 12, I want to thank you
6 again for your service. There will be a small token of our
7 appreciation in the form of a certificate about that service.
8 You've provided a necessary and important assistance to us,
9 and we do appreciate that. So you will have a certificate,
10 and you are excused.

11 You are excused, sir.

12 Members of the jury, you may use your notes during
13 the course of your deliberations. Now, again, remember: The
14 notes are not evidence, but the notes can help you recall what
15 the evidence was, so feel free to use them during your
16 deliberations. We're going to take some time to organize
17 ourselves in terms of collecting the evidence to be brought
18 back to you, and perhaps you can take that time as well to
19 organize yourself and your deliberative process.

20 We will be here at your call. You may begin your
21 deliberations.

22 (Jury excused.)

23 **THE COURT:** Counsel, please examine all of the
24 evidence that goes back. Please actually touch it, make sure
25 that nothing goes back that should not go back, and we will

1 await the return of the jury.

2 We're in recess.

3 **THE CLERK:** All rise. This Honorable Court stands
4 in recess until return of the jury.

5 (Proceedings adjourned.)
6
7

8 I, Martin J. Giordano, Registered Merit Reporter and Certified
9 Realtime Reporter, certify that the foregoing is a correct
10 transcript from the record of proceedings in the
11 above-entitled matter.
12

13 _____
14 Martin J. Giordano, RMR, CRR

_____ Date
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